

13-1

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff)	
)	
-VS-)	Criminal No. 10-10159-PBS
)	Pages 13-1 - 13-263
TODD LYONS and DANIEL EREMIAN,)	
)	
Defendants)	

JURY TRIAL - DAY THIRTEEN

BEFORE THE HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

United States District Court
1 Courthouse Way, Courtroom 19
Boston, Massachusetts 02210
November 21, 2011, 9:03 a.m.

LEE A. MARZILLI and VALERIE A. O'HARA
OFFICIAL COURT REPORTERS
United States District Court
1 Courthouse Way, Room 7200
Boston, MA 02210
(617)345-6787

1 A P P E A R A N C E S:

2 FRED M. WYSHAK, JR., ESQ. and ROBERT A. FISHER, ESQ.,
3 Assistant United States Attorneys, Office of the United States
4 Attorney, 1 Courthouse Way, Boston, Massachusetts, 02210,
for the Plaintiff.

5 PETER CHARLES HORSTMANN, ESQ., Partridge, Ankner &
6 Horstmann, LLP, 200 Berkeley Street, 16th Floor, Boston,
Massachusetts, 02116, for the Defendant, Todd Lyons.

7 MARC S. NURIK, ESQ., Law Offices of Marc S. Nurik,
8 One East Broward Boulevard, Suite 700, Fort Lauderdale,
Florida, 33301, for the Defendant, Daniel Eremian.

9 ALSO PRESENT:

10 DONALD K. STERN, ESQ., Cooley, LLP,
11 Prudential Tower, 46th Floor, 800 Boylston Street, Boston,
Massachusetts, 02199, for Patrice Tierney.

13-3

Page 3

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
---------	--------	-------	----------	---------

PATRICE TIERNEY

By Mr. Wyshak:	13-8			
By Mr. Nurik:		13-83		
By Mr. Horstmann:		13-124		
By Mr. Wyshak:			13-127	
By Mr. Nurik:				13-143
By Mr. Horstmann:				13-146
By Mr. Nurik:				13-146

JOHN OLSEN

By Mr. Fisher:	13-147			
By Mr. Horstmann:		13-196		
By Mr. Nurik:		13-223		
By Mr. Fisher:			13-239	
By Mr. Nurik:				13-245
By Mr. Horstmann:				13-246

MICHAEL CRAFFEY

By Mr. Fisher:	13-250
----------------	--------

EXHIBITS	PAGE
----------	------

Government:

43	13-168
44	13-182
47	13-183
229	13-184
320	13-226
178	13-252

I N D E X (Continued)

EXHIBITS

PAGE

Government:

236	13-253
-----	--------

237	13-254
-----	--------

Defendant:

317	13-118
-----	--------

317-A-for ID	13-118
--------------	--------

315	13-123
-----	--------

318	13-125
-----	--------

319	13-127
-----	--------

317-A	13-128
-------	--------

P R O C E E D I N G S

THE CLERK: Court calls Criminal Action 10-10159,
United States v. Lyons, et al.

THE COURT: Thank you. You may be seated.

MR. WYSHAK: Good morning, your Honor.

THE COURT: We are still waiting on one juror, but I
was told that Mr. Wyshak wanted to see me?

MR. WYSHAK: Yes. Do you want to do this at sidebar?

THE COURT: It's fine with me. I don't know what it's
about.

SIDEBAR CONFERENCE:

MR. WYSHAK: These exhibits, 239 and 175 and 176, are
some of the bank records that we've stipulated to the
authenticity.

THE COURT: Okay.

MR. WYSHAK: I intend to show her some.

THE COURT: Okay.

MR. WYSHAK: Now, the entire exhibit will go in
through Special Agent Lemanski later in the day, but I just
want to make sure that we're not going to get slowed down by
objections. So I want to show some items --

THE COURT: Well, I don't know why you have to do
this -- why don't you show it to him.

MR. WYSHAK: I did.

MR. NURIK: Our attitude is, it's an issue of the rule

1 of completeness. If they're going to put anything into
2 evidence, they should put it all into evidence instead of just
3 putting in bits and pieces now.

4 THE COURT: Well, you can put in the rest, or we could
5 do it -- take care of it, but I don't want it slowed down. I
6 mean, if it's authentic and it's a business record, I have no
7 problem with either the whole thing going in with little yellow
8 stickies or part of it.

9 By the way, I got your objections -- we'll work
10 through those -- to the jury instructions. Thank you. That
11 was very helpful. Actually, it's manageable, which is good.
12 It's a tough charge.

13 MR. WYSHAK: And I filed a brief yesterday.

14 THE COURT: Two briefs, three.

15 MR. FISHER: I filed one on Friday for Exhibit 61.

16 THE COURT: Yes, you're 61. You were Antigua, and
17 then you're about their expert.

18 MR. WYSHAK: Their expert, right.

19 THE COURT: I understand that. I'm glad you had such
20 a nice weekend.

21 (Laughter.)

22 THE COURT: All right, so I think we shouldn't be
23 coming to sidebar because it doesn't --

24 MR. NURIK: No, I understand.

25 THE COURT: It feels wrong. Is the last juror here?

1 THE CLERK: I'm going to go check right now.

2 (End of sidebar conference.)

3 THE COURT: Before they walk in, should I introduce
4 Mr. Stern? He's going to sit right next to the witness.

5 MR. WYSHAK: It's fine with me, your Honor.

6 MR. NURIK: No objection.

7 MR. STERN: Your Honor, I wasn't going to sit there.
8 I was just going to sit right here.

9 THE COURT: Wherever you want.

10 MR. STERN: Thank you, your Honor. I'm comfortable
11 right here.

12 THE COURT: Do you want to be introduced?

13 MR. STERN: I may voice an objection at some point, so
14 it might make more sense to introduce.

15 THE COURT: Yes, yes, yes.

16 (Jury enters the courtroom.)

17 THE COURT: Good morning to everybody.

18 THE JURY: Good morning.

19 THE COURT: Why don't you be seated. Did anyone see
20 anything in the press, do any research, or talk to anyone about
21 this case?

22 THE JURY: No.

23 THE COURT: No? All right, I find the jury has
24 complied. And Maryellen, who's my courtroom deputy, is a woman
25 of very many skills, and so she personally got down and

1 spritized the chair with oil, so I'm hoping it is now good for
2 you all.

3 So, all right, we're going to call the government's
4 next witness, please.

5 MR. WYSHAK: The government calls Patrice Tierney.

6 PATRICE TIERNEY

7 having been first duly sworn, was examined and testified as
8 follows:

9 THE CLERK: Could you please state and spell your name
10 for the record.

11 THE WITNESS: Patrice Tierney, P-a-t-r-i-c-e
12 T-i-e-r-n-e-y.

13 THE COURT: Thank you. I just want to also introduce
14 you to -- this gentleman sitting over there is Don Stern, who
15 is her attorney, and if he pops up for something, I just wanted
16 you to know who he was. All right, thank you.

17 DIRECT EXAMINATION BY MR. WYSHAK:

18 Q. Good morning, Mrs. Tierney.

19 A. Good morning.

20 Q. Can you tell us how old you are, ma'am.

21 A. I'm sixty.

22 Q. And tell us about your educational background.

23 A. I went to high school, and I went to massage therapy
24 school.

25 Q. Okay. And where did you go to high school?

1 A. Masconomet in Topsfield.

2 Q. All right. And how about your employment history?

3 A. My employment history, I worked for attorneys. I worked
4 for a travel incentive agency. Then I got married, and I'm now
5 employed at a hotel in Salem.

6 Q. Okay, in what capacity?

7 A. I run banquets and weddings and administrative assistant
8 to the general manager.

9 Q. And at one point you had your own business?

10 A. Yes, I did.

11 Q. And what is that called?

12 A. It was called Tierney Designs.

13 Q. And what kind of business was that?

14 A. It was a -- I made jewelry of my own design, and I gave
15 that up when my mom became ill.

16 Q. Okay. So you no longer have that business?

17 A. No, I do not.

18 Q. And you're married, ma'am?

19 A. Yes.

20 Q. And you're married to John Tierney; is that correct?

21 A. Yes.

22 Q. And he's a Congressman?

23 A. Yes.

24 Q. And a lawyer?

25 A. Yes.

1 Q. And prior to that, you were previously married; is that
2 correct?

3 A. Yes.

4 Q. And that was to John Chew?

5 A. Allen Chew.

6 Q. Allen Chew, okay. And your son, you have a son by that
7 marriage, John Chew?

8 A. Yes.

9 Q. And a daughter?

10 A. Carlin and another son Justin.

11 Q. Okay. And your maiden name is Eremian; is that fair to
12 say?

13 A. Yes.

14 Q. And Robert Eremian is your brother?

15 A. Yes.

16 Q. And Daniel Eremian who's here in court is also your
17 brother; is that correct?

18 A. Yes, yes.

19 Q. I want to show you what's been marked Government
20 Exhibit 174. Take a look at that.

21 (Witness examining document.)

22 Q. Have you seen a copy of that order?

23 A. Yes, I have.

24 Q. All right. And do you understand what it provides?

25 A. Yes, I do.

1 Q. Okay. And can you tell us what you believe it provides.

2 A. Well, I believe this gives me immunity and that I will not
3 be prosecuted for anything I say in this courtroom.

4 Q. Nothing you say can be used against you?

5 A. Right.

6 Q. Is that fair to say?

7 A. Yes.

8 Q. You have been prosecuted, however; is that fair to say?

9 A. Yes.

10 Q. Okay, and in connection with this case?

11 A. Yes.

12 Q. And you pled guilty?

13 A. Yes.

14 Q. And what did you plead guilty to?

15 A. I pled guilty to aiding and abetting and willful blindness
16 in filing false taxes information to my brother.

17 Q. Aiding and abetting your brother --

18 MR. NURIK: Can we just have a clarification which
19 brother.

20 THE WITNESS: Oh, I'm sorry. My brother Robert.

21 Q. You aided and abetted him in filing false tax returns; is
22 that correct?

23 A. Yes.

24 Q. His personal tax returns?

25 A. Yes.

1 Q. And that was related to his operation of Sports Off Shore,
2 his business in Antigua?

3 A. It was his personal taxes.

4 Q. Okay. And what were you sentenced to?

5 A. I was sentenced to 30 months in the house of detention and
6 five years -- five months, I'm sorry, home confinement, two
7 years probation.

8 Q. Thirty days, right?

9 A. Thirty days.

10 Q. Thirty days incarceration and five months home detention?

11 A. Yes.

12 Q. With a period of probation to follow?

13 A. Uh-huh, yes.

14 Q. And you're currently still on probation, correct?

15 A. Yes.

16 Q. All right. Now, just to drill down a little bit, you said
17 that you pled guilty that you were willfully blind; is that
18 correct?

19 A. Yes.

20 Q. And can you tell the jury what you were willfully blind
21 about?

22 A. My understanding is, I was willfully blind to not asking
23 enough questions as to information I was putting into my
24 bookkeeping system.

25 Q. Okay, you were willfully blind regarding the legality of

1 your brother's business, Robert Eremian's business?

2 A. No.

3 Q. Okay. Well, you recorded or you reported to his tax
4 preparer that his income was commissions?

5 A. Yes.

6 Q. Is that correct?

7 A. Yes.

8 Q. And what did you understand those commissions to be from?

9 A. From his consulting SOS.

10 Q. And that was not true, correct?

11 A. It's my belief that it was true, that he was a consultant.

12 Q. Well, what about that were you willfully blind about?

13 A. Could you repeat that, please.

14 Q. Okay, I withdraw it and rephrase it. At the end of the
15 day --

16 A. Yes.

17 Q. -- you admit that he wasn't a consultant to Sports Off
18 Shore; isn't that true?

19 A. I didn't admit that he was not a consultant.

20 Q. As you sit here today on this witness stand, do you admit
21 that he was not a consultant to Sports Off Shore?

22 A. He was a consultant to Sports Off Shore.

23 Q. So you don't -- was he the owner of Sports Off Shore?

24 A. I don't know who the owner was. He was a consultant.

25 Q. You don't know who the owner is?

1 A. No, I don't.

2 Q. Okay, you understand you're testifying here under oath,
3 ma'am, correct?

4 A. Yes, uh-huh.

5 Q. And that the immunity order does not protect you if you
6 lie; you understand that?

7 A. Yes.

8 Q. You haven't met with the government in this case; is that
9 correct?

10 A. Yes.

11 Q. You've refused to meet with the government attorneys? You
12 and I have never spoken before?

13 A. Not except for my trial.

14 Q. Okay, but we've never --

15 A. No.

16 Q. Until today, we've never had a dialogue?

17 A. No.

18 Q. Okay. So when you stood up before a judge like the Judge
19 here in this courtroom -- do you remember that day?

20 A. With Judge Young?

21 Q. Yes, the judge that you -- Judge Young?

22 A. Yes.

23 Q. Okay. You remember you raised your right hand?

24 A. Yes.

25 Q. Okay. And you swore to tell the truth on that date, did

1 you not?

2 A. I did.

3 Q. Okay. And you admitted that you were willfully blind in
4 not ascertaining the true facts about some of the information
5 that appeared on your brother's tax returns, correct? Isn't
6 that what you pled guilty to?

7 A. I'm sorry, could you repeat that. I'm a little nervous.

8 THE COURT: You know what, there's a -- do you have a
9 glass of water there?

10 THE WITNESS: Yes, I do.

11 THE COURT: Sit back, take your time. All right, why
12 don't you ask the question again.

13 Q. When you pled guilty before Judge Young, correct --

14 A. Yes.

15 Q. -- you admitted that you were willfully blind regarding
16 the truth of some of the information that was on your brother
17 Robert Eremian's tax returns, correct?

18 A. Correct.

19 Q. And that was for multiple tax years, 2005 through 2009?

20 A. Yes.

21 Q. For four years?

22 A. Yes.

23 Q. Okay. So wasn't one of the things that you admitted --
24 well, withdrawn. What do you think that you were willfully
25 blind about?

1 A. Questioning the amounts of the commissions that I was
2 recording. I should have asked more questions as to the
3 amounts.

4 Q. Okay. Well, you described the amount of money that was
5 reported on his income taxes as commissions, correct? And is
6 it your testimony that you believe that those amounts were
7 incorrect?

8 A. I did not believe they were incorrect. I trusted they
9 were correct as commissions.

10 Q. You didn't question the amount of money; is that your
11 testimony?

12 A. I didn't question the money. I --

13 Q. And you didn't question the fact that he reported himself
14 as a consultant, a computer specialist, correct?

15 A. Correct.

16 Q. And you didn't question that either?

17 A. I did not, correct.

18 Q. Okay. And you understood that his tax returns did not
19 reflect that his income was from gambling revenue, correct?

20 A. Correct.

21 Q. And you admitted that you engaged in a conscious course of
22 deliberate ignorance?

23 A. Correct.

24 Q. Is that true?

25 A. Correct.

1 Q. Can you explain to the jury what you understand that to
2 mean.

3 A. That I was not paying attention.

4 Q. And you should have?

5 A. Yes.

6 Q. And that was because there are these things called
7 "red flags," right?

8 A. Yes.

9 Q. Things in life that sort of -- it's like a stoplight?

10 A. Yes.

11 Q. You know when you see that stoplight, you know to stop,
12 correct? And you ignored those kind of signals?

13 A. Yes.

14 Q. Correct? Do you remember being stopped by Immigration in
15 December of 2007, Customs?

16 A. Where?

17 Q. Have you been stopped more than once going through
18 Customs?

19 A. Actually, I have.

20 Q. Okay. This was after your trip to Costa Rica?

21 A. Yes.

22 Q. You recall that event?

23 A. With my husband, yes.

24 Q. Yes, your husband was with you?

25 A. It was a business trip, yes.

1 Q. Okay. And you were pulled out of line by Customs,
2 correct?

3 A. Yes.

4 Q. And was that one of those red flags that you missed? It
5 should have put you on notice that there was something amiss?

6 A. No.

7 Q. Well, why did you think that you were stopped by Customs?

8 A. I had learned from my -- even my nephew, he had been
9 pulled. There had been people pulled aside. They pick them
10 out of -- they pick them randomly.

11 Q. Is that what you believed to be the reason that you were
12 stopped, that it was a random stop?

13 A. I did, I did, I did.

14 Q. Isn't it true that your husband had an argument with the
15 Customs officials and demanded to know if the reason that you
16 were pulled out of line was because your maiden name was
17 Eremian? Do you recall that?

18 MR. HORSTMANN: Objection, your Honor.

19 THE COURT: Overruled.

20 A. No. I'm sorry.

21 Q. You don't recall that?

22 A. I do not.

23 Q. So you don't believe that you were stopped at Customs
24 because your brother at that time was under investigation?

25 A. I do not.

1 Q. Your brother Robert --

2 MR. NURIK: Objection.

3 THE COURT: Sustained at this point. She doesn't
4 know.

5 Q. All right, I'd like to show you some bank records. Were
6 you a joint accountholder on a Bank of America account with
7 your brother Robert Eremian?

8 A. Yes, I was.

9 Q. And how many accounts were you jointly on with your
10 brother Robert Eremian?

11 A. I was jointly on his account, just that one.

12 Q. Just that one?

13 A. Uh-huh, yes.

14 Q. Was there an account that was used to run the Lynnfield
15 home?

16 A. Yes.

17 Q. And there was a nanny's name on that account?

18 A. Yes.

19 Q. All right. And your name was on that account?

20 A. Yes.

21 Q. And Robert's name was on that account?

22 A. I wasn't sure if his was on that account. I believe I
23 opened it for the household. I believe I called it "household
24 account" and that Isabella and myself were on the account.
25 It's possible. I mean, they were linked through the bank, but

1 I don't recall if his name was on the statements.

2 Q. And didn't you have an account for your mother in Florida?

3 A. Yes, I did.

4 Q. Okay. And isn't it true that your brother's name was also
5 on that account?

6 A. No.

7 Q. Whose name was on that account?

8 A. My mother's and mine.

9 Q. Did you have an account at Sovereign Bank?

10 A. No, I did not.

11 Q. Did your brother Robert have an account at Sovereign Bank?

12 A. I think initially when he first asked me to take over for
13 the family, I opened one at Sovereign Bank with very little
14 money in it, and then I transferred it to -- I don't even think
15 it was Bank of America at the time. I think it was some other
16 bank.

17 MR. WYSHAK: Your Honor, at this time I'd like to put
18 some documents from Government Exhibit 175 up on the screen.

19 THE COURT: All right.

20 MR. WYSHAK: Can you put the first item up. Let's go
21 to the first item as opposed to the summary.

22 Q. All right, do you see that this account ends, if you look
23 at the deposit slip at the bottom, 0933?

24 A. Yes.

25 Q. And at the time it was a Fleet Bank?

1 A. Yes.

2 Q. And Fleet got purchased by Bank of America ultimately,
3 correct?

4 A. I believe so.

5 Q. And is this the account that you were jointly on with your
6 brother Robert?

7 A. No, because that was a -- no. On the Fleet account?

8 Q. Well, on the account that ultimately was -- at some time
9 Fleet gets bought by Bank of America, correct?

10 A. I agree, and we opened a fresh account when I started
11 doing his personal bookkeeping. This deposit slip is not
12 familiar to me. I don't even remember the -- I don't recognize
13 the address.

14 Q. Okay, can we put up -- do you see that deposit slip?

15 A. I do.

16 Q. Is that your handwriting?

17 A. No. That's my brother's handwriting.

18 Q. Okay, now that says Bank of America, correct?

19 A. It does.

20 Q. All right, and that's that same account number, 0933?

21 A. Yes.

22 Q. And at this period of time, you agree that you were
23 managing this account for him, correct?

24 A. Yes.

25 Q. All right, when did you begin managing the account for

1 him?

2 A. 2003, maybe end of 2002.

3 Q. Okay. And how did that come about?

4 A. It came about when he, uhm, he needed someone who he could
5 trust to pay his bills, to get them to the post office and pay
6 them timely. His children were not responsible enough to go to
7 the post office and get bills. His wife was in rehabilitation
8 in Florida at the time. He knew he would be traveling back and
9 forth with the permission from Judge Tauro to Antigua, Florida
10 to see his wife, and be back and forth to see his children,
11 whoever remained in Lynnfield. So there was not one place he
12 could get his mail, so I was in charge of paying his personal
13 bills and the household bills.

14 Q. Okay. And where did those bills go to?

15 A. His personal bills went to a post office box in Beverly
16 because that's what his probation residence was, Beverly.

17 Q. Okay, but he was not residing in the United States at the
18 time?

19 A. At the time of probation?

20 Q. Yes. In 2003 when you began managing this account --

21 A. Yes.

22 Q. -- was he residing in the United States?

23 A. Part-time.

24 Q. Okay. Well, what was his residence?

25 A. His residence was -- he was required to stay with my mom

1 in Lynnfield -- I mean, in, I'm sorry, Beverly during his
2 probation time, and he was traveling back and forth to Antigua
3 for business and Florida to check on his wife and one of the
4 children that moved down there.

5 Q. Okay, so when you say he was required to stay with his
6 mom, where was that?

7 A. Where was it?

8 Q. Yes.

9 A. It was at Beverly Commons in Beverly. It's a condo.

10 Q. Okay. He wasn't living in the house in Lynnfield?

11 A. If one of his children were here, he might go over there,
12 but he was residing with my mom.

13 Q. Okay. And he had his mail delivered to a post office box;
14 is that correct?

15 A. The family bills went to a post office box so I could keep
16 them separate. His own --

17 Q. Did the checking account information go to his post office
18 box?

19 A. Yes.

20 Q. And who would go to the post office box to pick the mail
21 up?

22 A. I would.

23 Q. I'm going to ask you a question about, if you look at this
24 particular check, which is for \$20,000, do you see that
25 notation in the memo section that says "B/O Benevolence"?

1 A. I do now, yes.

2 Q. Okay. Are you familiar with that entity, Benevolence?

3 A. No.

4 Q. No?

5 A. I was first asked about it by my attorney when --

6 THE COURT: You don't need to tell us what your
7 attorney --

8 THE WITNESS: Oh, I'm sorry.

9 Q. Well, in fact you deposited checks that came from
10 Benevolence Funding, didn't you?

11 A. I don't recall the checks being called from the
12 Benevolence fund.

13 Q. And you in fact drafted a check to Benevolence Funding,
14 didn't you?

15 A. I don't recall.

16 MR. WYSHAK: Can we put 249 up on the screen.

17 Q. Do you see that?

18 A. I do.

19 Q. Okay, so this is a bank check, correct?

20 A. Yes.

21 Q. And do you see at the top it's got your name on it?

22 A. I do see that.

23 Q. And it's dated August 9 of 2004, correct?

24 A. Correct.

25 Q. And that's a check for \$250,000, correct?

1 A. Correct.

2 Q. Made payable to Benevolence Funding?

3 A. Correct.

4 Q. So you went to the bank and bought that check, right?

5 A. I don't know that I bought it. Maybe there were funds in
6 the account that --

7 Q. Well, you --

8 A. It's not a bank check, obviously.

9 Q. You purchased this check -- you used funds from the 0933
10 account, correct --

11 A. Correct.

12 Q. -- which when it was still Fleet? Now do you acknowledge
13 that you were managing the account when it was at Fleet Bank?

14 A. Yes.

15 Q. Okay. And you took \$250,000 from the account and bought
16 this check, correct?

17 A. Yes.

18 Q. All right. And you're the one who made it payable to
19 Benevolence Funding, correct?

20 A. Well, the bank did, but I must have given them the order.

21 Q. All right, you gave the bank instructions?

22 A. I don't recall this check, but, yes.

23 Q. Okay. Well, what did you understand Benevolence Funding
24 to be?

25 A. I didn't understand it to be anything. I was sending a

1 check to my brother.

2 Q. Okay, where did you get the name Benevolence Funding from?

3 A. He must have given it to me. It wasn't a frequent name.

4 Q. Did you have any understanding at all what his connection
5 to Benevolence Funding was?

6 A. I did not.

7 Q. What did you think it was at the time?

8 A. I didn't think much of it.

9 Q. Well, your brother says, "Send me \$250,000." That's a lot
10 of money, right?

11 A. Yes.

12 Q. And make the check payable not to Robert Eremian, correct,
13 but to this entity Benevolence Funding?

14 A. Right.

15 Q. Correct? And you don't question that?

16 A. No.

17 Q. It sounds like some kind of charitable organization?

18 A. It does.

19 Q. Isn't this one of those red flags that you were talking
20 about when you pled guilty, Mrs. Tierney?

21 A. It's possible a red flag. I should have asked what
22 Benevolence fund was.

23 Q. Right, because you knew that your brother had a criminal
24 record, correct?

25 A. Correct.

1 Q. And that he was running an illegal gambling business in
2 Massachusetts before he went to Antigua, correct?

3 A. Correct.

4 Q. And you knew that he was running a gambling business in
5 Antigua, correct?

6 A. Correct.

7 Q. And he wants money now, \$250,000, and he doesn't want the
8 check made out to him, correct?

9 A. Correct.

10 Q. And you don't question that?

11 A. No.

12 Q. Is it because you didn't want to know?

13 A. No, it's not that I didn't want to know. I just wrote the
14 checks that he asked me to write --

15 Q. Okay.

16 A. -- whether it be for charity or school or anything.

17 Q. Is that what you thought it was, for charity, \$250,000?

18 A. Well, Benevolence is not something I would expect my
19 brother to use for a name of something. I didn't know what it
20 was.

21 Q. You didn't think he was donating \$250,000 to charity, did
22 you?

23 A. Uhm, it's possible.

24 Q. It's possible?

25 A. Yes.

1 Q. That's your testimony?

2 A. Yes. He's made large donations to a lot of charities.

3 Q. \$250,000 at a time?

4 A. Uhm, \$100,000 at a time.

5 Q. And what charity did he donate \$100,000 to at one time?

6 A. I believe at one time there was the tsunami fund. I don't
7 recall the name of the fund, and at another time to the Bill
8 Clinton Foundation for -- I believe that was the earthquake --
9 no, the hurricane victims.

10 Q. Did you draft those checks?

11 A. I did.

12 Q. Out of what account?

13 A. Out of my -- out of his personal account.

14 Q. Out of this 0933 account?

15 A. Yes. There were two checks, I believe, for \$100,000 each
16 to the Clinton Foundation.

17 Q. Can we put up -- is that your handwriting on that deposit
18 slip?

19 A. Yes.

20 Q. Okay. So now this is August of 2003, correct?

21 A. Yes.

22 Q. And this is a \$100,000 check, and it's clear that this is
23 coming from Antigua?

24 A. Yes.

25 Q. Correct? And this is some of the income that you would

1 report to the tax preparer that was commission, correct?

2 A. It was either commission or money to pay taxes. Quarterly
3 I would get an amount from the tax attorney that --

4 Q. Try to answer the question.

5 A. I'm sorry.

6 MR. NURIK: Objection. She's answering the question.

7 THE COURT: What's the question again?

8 Q. The money that you were receiving from your brother from
9 Antigua --

10 A. Yes.

11 Q. -- you were reporting as income, correct?

12 A. Yes, correct.

13 Q. To his tax preparer?

14 A. Correct.

15 Q. Correct? And you described this income to his tax
16 preparer as commissions, correct?

17 A. Yes.

18 Q. And that was related to Sports Off Shore, correct?

19 A. His consulting.

20 Q. His consulting for Sports Off Shore?

21 A. Yes.

22 Q. So you knew that this money was related to the gambling
23 business in Antigua, correct?

24 A. For his consulting the gambling business, yes.

25 Q. Okay, do you still believe he's a consultant -- as you sit

1 here today on this witness stand, are you telling this jury
2 under oath that your brother is a consultant to Sports Off
3 Shore?

4 A. Yes.

5 Q. Okay. How many times have you been to Antigua?

6 A. Maybe five.

7 Q. Five? Okay. And have you stayed at the place where the
8 business is operated?

9 A. Yes.

10 Q. All right. And it's clear when you're there what's going
11 on, isn't it?

12 A. No.

13 Q. No? Okay. When you walk in the front door to this
14 building, isn't there a glass wall, behind which are numerous
15 people and computers and television monitors?

16 A. No.

17 Q. No?

18 A. No.

19 Q. What do you think you see when you walk in this building?

20 A. Well, number one, there's no front door. You walk in
21 through the garage and you enter a large enclosed patio, which
22 you can go off either -- there's no doors on it. And there's a
23 room to the front, a kitchen in the back, and a bedroom above
24 the garage and another bedroom in the back.

25 Q. Okay, did you ever see people working there at computer

1 monitors?

2 A. I saw people working at computers.

3 Q. Describe where in the building you think that was.

4 A. That was between the patio where we would socialize and
5 the kitchen.

6 Q. Okay. Is that a room?

7 A. Is it a room?

8 Q. Yeah.

9 A. Yes.

10 Q. Okay. Isn't that the main room when you enter the
11 building?

12 A. No. The main room is an outdoor room. It's an outdoor
13 reception area where we sat.

14 Q. That's a room, an outdoor patio?

15 A. Yes. It had furniture and tables and chairs and --

16 Q. Did it have a roof?

17 A. Yes.

18 Q. At some point do you enter a real building with walls and
19 ceilings off that patio?

20 A. Yes. I considered this a real building, an enclosed patio
21 in someone's home.

22 Q. Mrs. Tierney, can you please describe the area where you
23 saw people on computer monitors.

24 A. It was a room with people with computers and televisions.

25 Q. And how many people? How many people have you seen there

1 on the occasions you've been?

2 A. Maybe four to six.

3 Q. Four to six?

4 A. Uh-huh, yes.

5 Q. No more than that? How many computers did you see?

6 A. They each had a computer.

7 Q. Were there other computer stations that weren't occupied?

8 A. A few.

9 Q. Were there TV monitors?

10 A. There were TVs.

11 Q. Is this where Sports Off Shore, the business, was
12 operating from?

13 A. Excuse me?

14 Q. Is this where your brother Robert Eremian's business was
15 operating from?

16 A. That's -- I believe so.

17 Q. Okay. Was he in charge?

18 A. I never saw him in charge.

19 Q. What did you think his role was?

20 A. He helped with the computers and the software.

21 Q. The computers? Did he reside in the home?

22 A. Yes.

23 Q. In that building?

24 A. Yes, he did.

25 Q. Okay, so that was his personal residence?

1 A. Yes.

2 Q. Okay. And the business is operated out of that personal
3 residence, correct?

4 A. Correct.

5 Q. But he's not the owner of the business according to you?

6 A. I never knew who the owner of the business was.

7 Q. Well, who did you think it was?

8 A. I didn't think too much about it.

9 Q. Did he ever introduce you to his boss?

10 A. No.

11 Q. Did you ever see anybody who was giving him instructions
12 on what to do?

13 A. No.

14 Q. Wouldn't that be a sign that he was not the owner, if
15 somebody else was telling him what to do?

16 A. I thought a consultant could be self-employed. He's -- he
17 didn't have a boss.

18 Q. All right, well, let's talk about that. He's
19 self-employed as a consultant to a business that he runs out of
20 his private home, correct?

21 A. That is in his private home.

22 Q. That is in his private home, but he's not --

23 A. I didn't say that he runs it. You said that.

24 Q. Okay. Well, he's self-employed as a consultant to a
25 business which is operated out of his private home?

1 A. Correct.

2 Q. And you didn't think he owned that business?

3 A. No.

4 Q. But you don't know who did?

5 A. No.

6 Q. And this is your brother, right?

7 A. Yes.

8 Q. Somebody you've known all your life?

9 A. Yes.

10 Q. And you never talked to him about, "Isn't this your
11 business?"

12 A. He said that he owns the software for the business, which
13 I believed. He's very good with software.

14 Q. Did you ever have a conversation with your brother Robert
15 about who owned the business?

16 A. I believe I did at one time ask, and he said, "I don't own
17 the business."

18 Q. Did he tell you who did?

19 A. No.

20 Q. Was there any indication that somebody else owned the
21 business that you could observe?

22 A. No.

23 Q. There's a lot of money going into this 0933 account,
24 correct?

25 A. Yes.

1 Q. Would it surprise you that over the years that you managed
2 the account, there's almost \$5 million deposited in this
3 account?

4 A. Would it surprise me, is that what you said?

5 Q. Yes, \$5 million?

6 A. That's about correct probably.

7 Q. Okay. And is it your testimony that you believe that he
8 earned that money as a software consultant?

9 A. Yes.

10 Q. It's a lot of money for a software consultant, isn't it?

11 A. Yes, it is.

12 Q. All right. I'm going to show you --

13 MR. WYSHAK: Can we put the monitor on, your Honor,
14 the ELMO.

15 Q. Can you see that check, Ms. Tierney?

16 A. Yes.

17 Q. Is that your writing on the face of the check?

18 A. No, it's not.

19 Q. Is that your endorsement on the back?

20 A. It looks like my brother's signature.

21 Q. You think that's your brother's endorsement?

22 A. Well, similar.

23 Q. When these checks would get deposited in the bank --

24 A. Yes.

25 Q. -- how did that occur?

1 A. I'd make a deposit slip out and bring them to the bank.

2 Q. Okay, so how would you get the check?

3 A. It would be sent in an envelope to my house.

4 Q. To your home?

5 A. Yes.

6 Q. Not to the post office box?

7 A. No, because it had to be signed for.

8 Q. All right, so he would send you a check in the mail from
9 Antigua?

10 A. Yes.

11 Q. Already endorsed like this?

12 A. No, not always.

13 Q. Okay, sometimes you'd endorse it?

14 A. Uh-huh.

15 THE COURT: Is that "yes"?

16 THE WITNESS: Yes. I'm sorry.

17 Q. And you would take the check, fill out a deposit slip, and
18 deposit it in the account?

19 A. Yes.

20 Q. And this is another one of those checks with that
21 Benevolence in the memo section, correct?

22 A. I see it now, yes.

23 MR. WYSHAK: Can we put up the summary exhibit.

24 Q. Okay, so this is a summary of the deposits that went into
25 this account that came from Antigua, and I assume that you --

1 if you take a look at those transactions, you don't dispute --
2 if we can go to the second page -- that these were funds that
3 were going into the account that you managed?

4 A. I don't recognize all the dates, but it appears that they
5 all went into that account.

6 Q. Okay. And at some point you can see that the checks from
7 Benevolence Funding seem to stop around 2006?

8 A. Yes.

9 Q. And Mr. Eremian, Robert Eremian, starts using wire
10 transfers?

11 A. Correct.

12 Q. Right? And they're coming from Deutsche Bank?

13 A. I believe they were several banks.

14 Q. Okay. Do you know why in 2006 he stopped sending you
15 checks to be deposited and started transferring money through
16 Europe?

17 A. I have no idea.

18 Q. Did you ever discuss that with him?

19 A. No.

20 Q. Did he ever tell you, "I'm not going to send you these
21 checks anymore"?

22 A. No. I thought he was making it easier for me just wiring
23 it in.

24 Q. Your husband had accompanied you to Antigua?

25 A. Pardon me?

1 Q. Your husband had accompanied you to Antigua?

2 A. Yes.

3 Q. How many times?

4 A. Twice.

5 Q. And he was present and observed the operation at SOS?

6 MR. NURIK: Your Honor, I object as to relevancy of
7 this.

8 THE COURT: Overruled.

9 Q. Yes?

10 A. He dined there.

11 Q. Okay, can you try to answer the question. I asked you,
12 was he present --

13 THE COURT: So based only on what you saw.

14 A. What I saw, he sat down and we had dinner. I couldn't see
15 through a wall.

16 Q. Isn't it a glass wall?

17 A. I don't think it's a glass wall. I haven't been there in
18 many years. Maybe it is a glass wall now. I'm sorry, I don't
19 recall.

20 Q. Would it refresh your recollection if I told you that
21 numerous witnesses have testified it's a glass wall?

22 A. If that's their observance. It just wasn't my focus. I'm
23 sorry.

24 Q. Visible from the dining area, correct?

25 A. (The witness nodded affirmatively.)

1 Q. You have to answer orally.

2 A. Yes. I'm sorry.

3 Q. It was visible from the dining area?

4 A. The wall, yes.

5 Q. The glass wall?

6 A. I'm saying I don't recall it being a glass wall. I'm
7 sorry.

8 Q. Is it your testimony that your husband did not observe
9 people operating computers?

10 MR. NURIK: Objection as to relevance.

11 THE COURT: Sustained. Sustained at this point.

12 Q. Did your husband when he was with you in Antigua observe
13 people working for SOS?

14 MR. NURIK: Objection.

15 THE COURT: Sustained.

16 Q. Were you present with him at a location where you observed
17 people working for SOS?

18 MR. NURIK: Objection. It's the same thing.

19 THE COURT: Overruled.

20 A. Could you rephrase that, please.

21 Q. Sure. You told us you and he dined there?

22 A. Yes.

23 Q. At the time you dined at your brother's house, were there
24 people there working for SOS?

25 A. Not that I observed.

1 Q. Not that you observed.

2 A. I was dining. There was a wall. I was dining.

3 Q. While you were there, did you ever observe people working
4 for SOS?

5 A. I observed people sitting at computers.

6 Q. Okay. Was your husband with you when you made that
7 observation?

8 A. No.

9 Q. In terms of proximity to the dining area, where were those
10 people sitting at computers?

11 A. Probably the distance from me to you.

12 Q. Okay, it's not like it's --

13 A. Maybe further.

14 Q. So it's fairly close proximity, correct?

15 A. I guess it was -- it didn't seem close to me.

16 Q. Okay. And what time do you dine in Antigua?

17 A. We dine at a very early hour because we all go to bed
18 early, probably 6:00, 6:30.

19 Q. And those are prime gambling hours, aren't they?

20 A. I don't know. I don't gamble.

21 Q. You don't know. You do know, Ms. Tierney.

22 A. I don't.

23 MR. NURIK: Objection.

24 THE COURT: Sustained, sustained. I strike the --

25 Q. Your brother has been involved in illegal gambling

1 business for how long?

2 A. I don't know how many years. I'm sorry.

3 Q. Take a guess.

4 MR. NURIK: Objection. Can we just have a
5 clarification, brother.

6 Q. Robert Eremian, correct?

7 A. I don't know how many years. I can't give you the number
8 of years. I'm sorry.

9 Q. About how long do you think?

10 A. Fifteen, twenty years.

11 Q. Your father was involved in that business with your
12 brother before your father passed away?

13 A. I don't believe my father worked with my brother. He gave
14 my father a place to sit. I never observed my dad working.

15 Q. Do you think your mother knew whether or not your father
16 worked?

17 MR. NURIK: Objection.

18 THE COURT: Sustained.

19 Q. Well, did you ever have a conversation with your mother
20 about whether or not your father started this business at a
21 bowling alley in Peabody?

22 MR. NURIK: Objection.

23 A. Never.

24 THE COURT: Sustained.

25 Q. You never had that conversation?

1 A. Never.

2 MR. NURIK: Objection.

3 THE COURT: Sustained.

4 Q. How about your son, did he work for your brother Robert
5 Eremian?

6 A. Yes, he did, my son John.

7 Q. Okay. And how about your brother Dan, did he work for
8 your brother Robert Eremian?

9 A. Not to my knowledge.

10 Q. Not to your knowledge. Never?

11 A. Not to my knowledge. He had a restaurant he ran.

12 Q. Would it surprise you if your son knew that your brother
13 worked --

14 MR. NURIK: Objection.

15 THE COURT: Sustained.

16 MR. WYSHAK: Well, I think I can --

17 Q. Are you aware of the fact that your son knows that your
18 brother works for Robert Eremian?

19 MR. NURIK: Objection.

20 THE COURT: Sustained.

21 MR. WYSHAK: I can ask her if she has --

22 THE COURT: Sustained.

23 Q. Are you aware of the fact that your daughter Carlin knows
24 that your brother works for Robert Eremian?

25 MR. NURIK: Objection.

1 THE COURT: Sustained to this line of questioning.

2 Q. But you don't know, right?

3 A. No.

4 Q. No, you don't know. And you don't know that the prime
5 hours for a gambling office are in the early evening?

6 A. I do not know.

7 Q. Before basketball games began or baseball --

8 THE COURT: She said she doesn't know.

9 Q. Does the house in Lynnfield have a pool?

10 A. Yes, it does.

11 Q. Okay. And do you recall being present at that pool on
12 many occasions with your mother and a woman named Linda
13 Richardson?

14 A. No, I don't.

15 Q. You don't know Linda Richardson either, I guess, huh?

16 A. I know of Linda Richardson.

17 Q. Okay. Is it your testimony that you never were at your
18 house in Lynnfield when she was present?

19 A. I don't remember. I'm sorry, I can't recall that.

20 Q. You don't remember her being present?

21 A. She wasn't a -- she wasn't a close friend. I met her on
22 two or three occasions.

23 Q. Do you remember sitting around the pool while the men were
24 up in the garage?

25 A. No, I do not.

1 Q. You don't remember any of that either?

2 A. No. It could have been my sister. It wasn't me.

3 Q. Excuse me?

4 A. It could have been my sister she remembered, but I don't
5 recall. I was raising my family.

6 Q. It's your parents' house, correct?

7 A. Pardon me?

8 Q. It was your parents'?

9 A. No.

10 Q. In Lynnfield?

11 A. No.

12 Q. Were your parents there on numerous occasions?

13 A. Visiting.

14 Q. You said you didn't frequent the house in Salem Street?

15 A. No.

16 Q. During the '90s?

17 A. No.

18 Q. You did not?

19 A. No.

20 Q. All right.

21 A. My mother lived in Beverly.

22 Q. I want to show you some documents from Government
23 Exhibit 239.

24 MR. WYSHAK: Can we put the first one up on the
25 screen.

1 Q. All right, now, that's a check on this joint account; is
2 that correct?

3 A. Correct.

4 Q. This 0933 account?

5 A. Correct.

6 Q. See the number at the bottom? Is that your handwriting on
7 that check?

8 A. Correct.

9 Q. And that's a check payable to you for \$1,000, correct?

10 A. Yes.

11 Q. And what was that for?

12 A. A gift from my brother.

13 Q. And who wrote "gift" in there?

14 A. I did.

15 Q. So you're managing this account with all this money in it,
16 and you're drafting checks to yourself?

17 A. Yes.

18 Q. How often?

19 A. Once a month.

20 Q. Once a month?

21 A. Yes.

22 Q. Twice a month?

23 A. Once a month.

24 Q. Is that your testimony, it's just once a month?

25 A. Unless there were something I was being repaid for, some

1 expenditures for the children for reimbursement, but a check to
2 me --

3 Q. Well, you had an account with the nanny, right?

4 A. Yes.

5 Q. And you had an account with your mother, correct?

6 A. Yes.

7 Q. And you funded both of those accounts with money from this
8 0933 account, correct?

9 A. Correct.

10 Q. And you used that money coming out of that account to pay
11 all the children's expenses, Mr. Eremian's children's expenses,
12 right?

13 A. Yes.

14 Q. His mother's expenses, correct?

15 A. Some expenses.

16 Q. His household expenses at Lynnfield?

17 A. Correct.

18 Q. All the normal kinds of things that people pay for when
19 they are supporting a family, correct?

20 A. Correct.

21 Q. You used that account to pay taxes for Mr. Eremian,
22 correct?

23 A. Correct.

24 Q. Mr. Robert Eremian, correct?

25 A. Correct.

1 MR. WYSHAK: Can we put the next check up.

2 Q. All right, now, this is a check drawn to Mary Eremian; is
3 that correct?

4 A. Correct.

5 Q. And signed by you, correct?

6 A. Correct.

7 Q. And where does this check get deposited?

8 A. That was signed over to me by my mom, so that would be put
9 into my probably, uhm -- it's now called Beverly Cooperative
10 Bank, but I don't know what it was called then -- my account,
11 one of my accounts.

12 Q. Okay. So you're cutting a check to your mother, correct?

13 A. Yes.

14 Q. And then she endorses it back to you?

15 A. Correct.

16 Q. And this is a way for you to draw out more than a thousand
17 a month?

18 A. No.

19 Q. No?

20 A. It was a way for her to compensate me for all that I did
21 for her.

22 Q. Your mother has to pay you to help her out?

23 A. No, she doesn't have to pay me.

24 Q. She's not paying you; your brother is paying you, isn't
25 he?

1 A. My mother endorsed this check over to me.

2 Q. The money is coming from your brother from Antigua,
3 correct?

4 A. To my mother and my mother to me.

5 Q. In fact you have written hundreds of these checks to
6 yourself and to your mother over the years, haven't you?

7 A. No.

8 Q. No?

9 A. Hundreds of checks?

10 Q. Well, let's talk about it.

11 MR. NURIK: Your Honor, I object to the relevancy of
12 this thing to our case.

13 THE COURT: Overruled.

14 Q. You managed this account from approximately 2003 through
15 2010?

16 A. 2009, yes.

17 Q. Okay. That's six to seven years?

18 A. Yes.

19 Q. Okay. And you admit that at least once a month you drew
20 out a check to yourself, correct?

21 A. The first few years -- the first year I was helping my
22 brother I don't believe I was drawing a check as a gift.

23 Q. Okay. Well, you would admit that if it's five or six
24 years once a month, it's got to be over a hundred checks?

25 A. Well, you said "hundreds."

1 Q. Well, there's also the same amount of checks to your
2 mother, correct?

3 A. Correct.

4 Q. So that would number in the hundreds?

5 A. Twelve checks a year.

6 Q. Yes, okay. So this was a common occurrence, for you to
7 draw money out of this account for yourself?

8 A. As a gift, yes.

9 Q. As a gift.

10 MR. WYSHAK: Can we put the summary chart up.

11 MR. NURIK: Your Honor --

12 MR. WYSHAK: Can we blow that up a little bit.

13 THE COURT: Excuse me. Have you not seen this?

14 MR. NURIK: Oh, I've seen it, but it's not in evidence
15 and she didn't prepare it.

16 THE COURT: Well, what is it? It's a --

17 MR. WYSHAK: A summary of the deposits into her
18 personal account. I mean, I can take the time --

19 THE COURT: Excuse me. Did you offer it? Are you
20 going to offer it?

21 MR. WYSHAK: Yes.

22 THE COURT: What number is this?

23 MR. WYSHAK: This is Exhibit 239.

24 THE COURT: Is there an objection?

25 MR. NURIK: Well, there's no authentication by any

1 witness at this point.

2 THE COURT: So at this point I'm not admitting it. So
3 see if she can authenticate it. If not, it gets taken down.

4 MR. WYSHAK: Okay. Well, we've taken the witness out
5 of turn, your Honor. I could have put the witness on to
6 authenticate this document.

7 THE COURT: I understand. That's why I'm letting you
8 do this, but if she can't identify it, then you have to do it
9 the other way.

10 MR. WYSHAK: Okay.

11 Q. Well, take a look at this, Mrs. Tierney. Would it
12 surprise you if these are the amount of checks that you wrote
13 to yourself out of this 0933 account for the years represented
14 on the left-hand side?

15 A. I've never seen this piece of paper.

16 Q. Okay, try to listen to my question. Let's go year by
17 year. 2004, would you agree that you drew \$5,000 out to
18 yourself? Does that sound about right?

19 A. I don't recall.

20 Q. Okay. And in 2005, \$18,000?

21 A. I don't recall.

22 THE COURT: Well, before we do this all, do any of
23 those numbers ring a bell?

24 THE WITNESS: None ring a bell.

25 Q. Okay, you don't know the exact amounts, correct?

1 A. Correct.

2 Q. But you don't dispute that you were taking sufficient
3 money out of this account for yourself, significant sums?

4 A. Never the sums that I see in front of me.

5 Q. Never \$27,000, \$37,000, \$40,000?

6 A. No.

7 Q. You dispute that, correct?

8 A. I don't recall taking checks in those amounts.

9 Q. What amounts do you recall?

10 THE COURT: Why don't you take it off the screen then.

11 Q. Well, how about the checks to your mother?

12 A. The checks to my mother are a thousand dollars a month.

13 Q. Okay. And you got that money, right?

14 A. My mother endorsed it over to me.

15 MR. WYSHAK: We can take it off.

16 Q. So it's fair to say that you profited from managing this
17 account to a great degree, did you not?

18 A. I received gifts from my brother for helping him.

19 Q. It's a lot of money, correct?

20 A. Yes. I did a lot of work.

21 Q. Well, okay. Did you do work? Were you compensated as an
22 employee?

23 A. No.

24 Q. People normally help out their family without
25 compensation, wouldn't you say?

1 A. Not to the degree that I was helping his family. I'm
2 sorry.

3 Q. So were you in fact earning a living by doing this work?

4 A. No. I was being appreciated. I wasn't just doing
5 bookkeeping.

6 Q. What else were you doing?

7 A. I was taking care of his children that were left behind,
8 paying his household bills, his personal bills, and taking care
9 of our mother who had cancer. I had many balls in the air
10 besides writing checks for his personal business.

11 Q. It sounds like the kinds of stuff we all do for our
12 children and our parents.

13 A. Not really. These were not my children. I had my own
14 family as well.

15 Q. Okay. Well, either it's a job or it's something you're
16 doing because you're a member of the family, correct?

17 A. I was a trusted member of the family to do a good job with
18 his children who had no mother.

19 Q. You didn't report any of this money as income, did you?

20 A. No, I did not.

21 MR. NURIK: Your Honor, I have to object at this
22 point. It's getting far afield from what we're on trial for.

23 THE COURT: Overruled, overruled.

24 Q. And in fact were you aware, since you were assisting your
25 brother's tax preparer, that your brother never filed gift tax

1 returns for any of these funds?

2 A. I was not aware. I didn't see the tax returns.

3 Q. Did you have a conversation with Mr. Flowers, the tax
4 preparer, about these gifts?

5 A. Yes.

6 Q. Okay. And he was aware of the gifts?

7 A. Yes.

8 Q. And did he file gift tax returns on behalf of your brother
9 Robert?

10 A. I don't know. I didn't see the tax return.

11 Q. Isn't it true that the reason that you started writing
12 checks to your mother was to come under the threshold of the
13 gift tax return?

14 A. No.

15 Q. Do you know what the threshold was?

16 A. Yes.

17 Q. Did you discuss that with Mr. Flowers?

18 A. I asked him a question, yes.

19 Q. Okay. So this was a way for you to get more money and
20 avoid the filing of a gift tax return to your mother, correct?

21 MR. NURIK: Your Honor, I would object and ask for a
22 sidebar on that.

23 THE COURT: Sustained on that one.

24 MR. NURIK: I'd ask for a sidebar.

25 THE COURT: Yes. A good time to stand and stretch.

1 SIDEBAR CONFERENCE:

2 MR. NURIK: I would ask for a limiting instruction at
3 this point. Anything that she may have pled to and Mr. Wyshak
4 is bringing up concerning any alleged or proposed or suggested
5 tax improprieties the jury should not consider as to my client.
6 It is not part of the charged --

7 THE COURT: That's fine as far as tax improprieties,
8 but in terms of her being paid to be a member of this
9 conspiracy in Massachusetts, it's right on the mark.

10 MR. NURIK: I'm not talking about that. I'm talking
11 about all these questions that are dealing with tax issues
12 right now.

13 THE COURT: That's fair, that's fair. But can I
14 just -- at some level -- I mean, obviously I've allowed leading
15 at this point. I do think that she's been a hostile witness,
16 but let me also say this: I don't know why you're trying to
17 pull in her husband so much at this point. I mean, to the
18 extent he's present, that's fine, but, I mean, it's just, you
19 know, where it's relevant it's relevant, where it's not it's
20 not.

21 MR. WYSHAK: It goes to her credibility, number one.

22 THE COURT: Maybe, but I'm just simply saying, if it's
23 relevant when he's present, I allowed it in, but it crossed the
24 line at some point, so --

25 MR. WYSHAK: I would also note that defense counsel

1 has asked almost every government witness about their taxes and
2 their tax obligations and their avoidance of tax obligations.

3 THE COURT: I'm not saying you can't ask the question,
4 but it's pretty clear it's not -- how long do you have with
5 her?

6 MR. WYSHAK: Maybe another twenty minutes.

7 THE COURT: How long will you both be?

8 MR. NURIK: Well, if he goes twenty minutes, I'm going
9 to at least take us up to the break at 11:00, maybe longer.

10 THE COURT: That's fine, that's fine, that's fine.

11 (End of sidebar conference.)

12 THE COURT: Let me just make it clear that there are
13 no charges of tax improprieties against Mr. Daniel Eremian, so
14 this discussion only has to do with Mrs. Tierney; and to the
15 extent that there's an allegation of tax improprieties against
16 Mr. Lyons, this line of questioning has nothing to do with it.
17 So I think that captures what we talked about.

18 MR. HORSTMANN: Thank you, your Honor.

19 BY MR. WYSHAK:

20 Q. Was your husband aware that you were managing this bank
21 account for your brother Robert Eremian?

22 A. Yes, he was.

23 Q. Were you aware that in 2006 a legislation was passed by
24 Congress making the kinds of transactions that you were
25 involved in illegal?

1 A. No, I was not aware.

2 Q. Were you aware that your husband voted on that legislation
3 twice?

4 MR. NURIK: Objection.

5 THE COURT: Sustained, sustained.

6 Q. Well, did you ever have a conversation with your husband
7 about the legality of what your brother Robert Eremian was
8 doing?

9 MR. NURIK: Objection.

10 THE COURT: Sustained. Well, actually, actually,
11 overruled from you.

12 MR. STERN: I object, your Honor, on behalf of the
13 witness.

14 THE COURT: Sustained.

15 MR. WYSHAK: I can ask the witness whether the
16 conversation existed.

17 THE COURT: Excuse me. Sustained. It's marital
18 privilege. You cannot --

19 MR. WYSHAK: I'm not going into the substance. I'm
20 just asking whether such a conversation occurred.

21 THE COURT: Sustained on the basis of marital
22 privilege.

23 MR. WYSHAK: Your Honor, may we have a sidebar on this
24 because --

25 THE COURT: No. I think I know what the argument is.

1 If there's something different from what I know -- well, let me
2 ask you this. Well, unless you have any knowledge that a
3 conversation happened in the presence of a third party where
4 the privilege wouldn't apply.

5 MR. WYSHAK: Well, the law in Massachusetts allows --

6 THE COURT: Excuse me. Let me see you.

7 SIDEBAR CONFERENCE:

8 MR. WYSHAK: We actually did some homework on this,
9 your Honor.

10 THE COURT: So did I.

11 MR. WYSHAK: Okay, and this Gallagher against
12 Goldstein case, which is a 1988 case, clearly says that the
13 statute does not bar evidence as to the fact that a
14 conversation took place. I can inquire as to whether or not
15 there was a conversation. I may not be able to go into the
16 substance, but I do think it's relevant to her credibility as a
17 witness whether or not she ever sought advice or counsel from
18 her husband, who's a lawyer.

19 THE COURT: That's exactly -- you're trying to get
20 into the substance of the conversation. Excuse me. The
21 objection is sustained. Now, here's the issue here: It's
22 relevant, so you can't make the objection.

23 MR. NURIK: I understand, I understand.

24 THE COURT: And to the extent that there's an
25 objection, that's why I'm looking to Mr. Stern here, I mean, so

1 I don't know who's doing what but --

2 MR. NURIK: Except that, and I understand --

3 THE COURT: It's a hundred percent relevant.

4 MR. NURIK: The problem is that typically a Mr. Stern
5 is not here, so I'm kind of preconditioned to object to the
6 spousal privilege.

7 MR. STERN: The other thing, your Honor, as long as
8 we're here, some of his question, and I think the objection was
9 properly sustained, but, I mean, if Mr. Wyshak is going to keep
10 banging away trying to insert any kind of, you know, evidence
11 about her husband and --

12 THE COURT: Well, at some level I'm assuming he will
13 act as an officer of the court and try and not do it on
14 irrelevant grounds. And to the extent I think it is, I've
15 sustained it. To the extent I think it's relevant, I haven't.
16 This is relevant; it's just privileged.

17 MR. STERN: The other thing I want to say, your Honor,
18 your Honor made a curative instruction to the jury in terms of
19 the tax. You might want to say there is no tax consequences to
20 a recipient, a donee of a gift that exceeds the limits.

21 THE COURT: If you believe it's a gift. I mean, I'm
22 not getting into that one.

23 (End of sidebar conference.)

24
25 BY MR. WYSHAK:

1 Q. I'd like to talk a little bit more about this 0933
2 account. Were some of the funds that were going into this
3 account, did they come from people who purchased Red Sox
4 tickets?

5 A. On very slim occasion, yes.

6 Q. Okay. And your brother held season tickets to the Red
7 Sox?

8 A. Correct.

9 Q. Four seats?

10 MR. NURIK: Clarification.

11 Q. Robert Eremian?

12 A. Yes.

13 Q. And you, like everything else, managed those Red Sox
14 tickets for him?

15 A. Correct.

16 Q. And you would sell the Red Sox tickets; is that fair to
17 say?

18 A. I didn't sell them. I sold games that he didn't allocate
19 to people.

20 Q. Okay. So if somebody wanted to buy some tickets, they'd
21 contact you and send you a check, and you'd send them the
22 tickets; is that fair to say?

23 A. Most of the instructions came from my brother as to where
24 the tickets would go to, or he would have somebody call me and
25 say, "Bob gave me --"

1 Q. Okay. Do you know a man named William Means?

2 A. I met him at my niece's funeral.

3 Q. Okay. And had you sent him Red Sox tickets in the past?

4 A. Yes.

5 Q. And had he sent you money in payment of those Red Sox
6 tickets?

7 A. I believe he talked directly to my brother about payment.
8 I don't recall receiving a check from Mr. Means.

9 Q. How about a Richard Ducharme?

10 A. Yes.

11 Q. Do you know him?

12 A. I do.

13 Q. Was he a person who also you sent Red Sox tickets to?

14 A. Yes, a few.

15 Q. Did he send you money?

16 A. On occasion.

17 Q. Andrew Pomper, he is a person you sent Red Sox tickets to?

18 A. I did.

19 Q. Did he send you money?

20 A. At one point he did. At other times he sent to my brother
21 or they had some arrangement. I only took -- I believe I took
22 one check from him.

23 Q. All right, all these men had arrangements with your
24 brother because they all worked for him; isn't that true?

25 A. I have no idea who worked for my brother.

1 Q. You have no idea that these men worked for your brother?

2 A. No.

3 Q. And sometimes they didn't have to pay you because this
4 money went on their SOS account; isn't that true?

5 A. I have no knowledge of that.

6 Q. They didn't tell you that? You didn't have that
7 conversation with them?

8 A. Never.

9 Q. Lindsey Perry, wasn't he another one of these people you
10 sent Red Sox tickets to?

11 A. Maybe one or two. No, he was not --

12 Q. Let's talk a little bit more about Lindsey Perry. Who was
13 he?

14 A. Lindsey Perry was a schoolmate of my family's in
15 Masconomet. Lindsey Perry ran a property in Nantucket. I
16 don't know what his job description was.

17 Q. Okay. He was a property manager, correct?

18 A. I guess so, yeah.

19 Q. He managed a timeshare that you used?

20 A. I didn't use it.

21 Q. All right. What did you do with it? Did you manage it?

22 A. I paid the bills that would come from -- it's a timeshare
23 complex, so it would be annual fees that everybody in the
24 complex paid. He would send the bill to my brother's P.O. box,
25 and that's what I would pay.

1 Q. Okay. And sometimes you didn't have to pay it; isn't that
2 true?

3 A. I don't recall when I didn't have to pay it.

4 Q. You don't recall that sometimes you didn't have to pay
5 because he owed SOS money?

6 A. I don't recall.

7 Q. You don't recall --

8 A. It was only a once or a twice year bill. I don't --
9 Nantucket wasn't one of my focuses.

10 Q. So all these people, Mr. Means, Mr. Ducharme, Mr. Pomper,
11 Mr. Perry, would sometimes set off what they owed either for
12 their Red Sox tickets or what you owed Mr. Perry for your condo
13 fees against debts that they had to SOS, and you don't know
14 anything about that?

15 A. I do not. I don't know anything about that.

16 Q. You don't know anything about that. You don't know why
17 you didn't have to pay the condo fees one year to Mr. Perry?

18 A. No.

19 Q. Did you know Mr. Perry was gambling with your brother
20 Robert Eremian?

21 A. No.

22 Q. You didn't know that either, right? This is a school chum
23 of yours who went to Masconomet with you?

24 A. I knew of him. He wasn't a chum.

25 Q. You told us just a minute ago he's a friend of your

1 family.

2 A. He went to school with some of my brothers.

3 Q. And you didn't know that he was betting with your brother
4 Robert Eremian?

5 A. No. He lives on Nantucket.

6 Q. I didn't ask you where he lived. I asked you if you knew
7 he was betting with your brother Robert Eremian?

8 A. I did not know.

9 Q. And you didn't know Andrew Pomper was betting with your
10 brother Robert Eremian?

11 A. I gave Andrew Pomper Red Sox tickets.

12 Q. Try to answer the question.

13 A. No.

14 Q. Did you know Andrew Pomper --

15 A. No.

16 Q. -- was betting with Robert Eremian?

17 A. No.

18 Q. Did you know he worked as an agent for Robert Eremian?

19 A. No.

20 Q. And Mr. Ducharme, did you know that he worked as an agent
21 for your brother Robert Eremian?

22 A. No.

23 Q. Or William Means, you didn't know he worked as an agent
24 for Robert Eremian?

25 A. No.

1 Q. Now, the timeshare in Nantucket, is it your testimony you
2 never used it?

3 A. Correct.

4 Q. Who used it?

5 A. His family, my brother's family.

6 Q. His kids?

7 A. His kids, his wife, his relatives.

8 Q. You never used it?

9 A. I never used his timeshare.

10 Q. Well, he had eight weeks, right? Did you have some other
11 timeshare we're not aware of?

12 A. No. I rented a week from Mr. Perry.

13 Q. Was that one of your brother's weeks?

14 A. No. It was a smaller condo place.

15 Q. In fact, didn't you sell that timeshare? Didn't you?

16 A. I didn't sell it.

17 Q. Okay. You didn't participate in the sale in 2009 of the
18 Nantucket timeshare?

19 A. No.

20 Q. No?

21 A. I knew he sold it.

22 Q. Who did you think owned the time-share?

23 A. I'm sorry?

24 Q. Who owned the time-share?

25 A. I believe my brother owned the time-share.

1 MR. WYSHAK: Can we put the monitor on.

2 Q. Can you see that check?

3 A. Yes.

4 Q. That's a check in September of 2009, correct?

5 A. Correct.

6 Q. To you?

7 A. Correct.

8 Q. For \$73,000?

9 A. Correct.

10 Q. Okay. And who is Islandwide Realty?

11 A. That is Ken Lindsay.

12 Q. Okay, you know Ken Lindsay, right?

13 A. I went to school with him.

14 Q. Did you know he gambled with your brother Robert?

15 A. No.

16 Q. Okay. So how long were you managing this time-share on
17 Nantucket?

18 A. I didn't manage it initially. Uhm, probably for maybe
19 four years, four or five years.

20 Q. Just four or five years?

21 A. Yes.

22 Q. Between what period of time?

23 A. Probably 2004 to 2009.

24 Q. Okay, about five years?

25 A. Yeah, yes.

1 Q. And there were eight weeks, right?

2 A. Yes.

3 Q. And if people wanted to use those weeks, you'd call
4 Mr. Perry and make arrangements?

5 A. No.

6 Q. No?

7 A. I wasn't involved in that.

8 Q. You didn't send him money for the ferry to get from the
9 mainland, Mass. Cape Cod to Nantucket?

10 A. Send money?

11 Q. Money, didn't you send him checks to pay for ferry tickets
12 for people who were going over to use the timeshare?

13 A. No.

14 Q. You don't remember any of this, Mrs. Tierney?

15 A. I don't know who stayed at my brother's timeshare. It was
16 separate from where I stayed. It was a big development.

17 Q. When you say it's your brother's timeshare, is it your
18 testimony you thought he owned it?

19 A. I thought he owned it.

20 Q. Okay. Were you surprised in 2009 to find out that he did
21 not own it?

22 A. I wasn't surprised. I think he was trying to sell it.

23 Q. Well, did he own it?

24 A. Yes.

25 Q. Was title in his name?

1 A. I don't recall. His or his wife's. I never saw a title.

2 Q. You don't recall that there was a problem that title had
3 never been put in his name?

4 A. I had nothing to do with the title.

5 Q. Okay. Well, the check to pay for this comes from
6 Islandwide Realty; is that correct?

7 A. Correct.

8 Q. That's Mr. Lindsay, correct?

9 A. It's --

10 Q. He's sending you a check for this, correct?

11 A. Yes.

12 Q. Did you go to a closing for the sale of this timeshare?

13 A. No.

14 Q. Do you know if your brother Robert Eremian went to --

15 A. No.

16 Q. No. You're getting a lot of money, but you don't know a
17 lot about any of this; is that fair to say?

18 A. This wasn't my money.

19 Q. It's coming to you, correct?

20 A. It's being deposited into my brother's checkbook.

21 Q. Okay, it's coming to you?

22 A. Yes.

23 Q. The check isn't written out to Bob Eremian?

24 A. No.

25 Q. It's written out to Patrice Tierney?

1 A. Correct.

2 Q. Who told Mr. Lindsay to make the check out to Patrice
3 Tierney?

4 A. Probably my brother.

5 Q. And you endorsed the check and deposited it, right?
6 That's your endorsement?

7 A. Yes, into his Bank of America account.

8 Q. Did you know that your brother obtained this timeshare as
9 payment of a gambling debt from Mr. Lindsay?

10 A. No, I did not.

11 Q. You don't know anything about that?

12 A. No.

13 Q. And you don't know that the timeshare was never in your
14 brother's name during that entire period that you managed it?

15 A. I never saw documents. I'm sorry. The bills came to his
16 name.

17 Q. And that when it was sold, Mr. Lindsay was the one who had
18 to sell it because title was still in his name? You don't know
19 anything about that?

20 A. This is a different -- this is Ken Lindsay, not Lindsey
21 Perry. Two different people.

22 Q. I'm aware of that.

23 A. Okay.

24 Q. That's what I asked you, that Mr. Lindsay had to sell it
25 because title was still in his name?

1 A. I didn't know that.

2 Q. Were you surprised when you saw that he was the purchaser,
3 that he's sending you the check here?

4 A. Who was the purchaser?

5 Q. Well, that he's sending you the check? He sold it.

6 A. Yes.

7 Q. He sold it to the purchaser.

8 A. So he sent me the proceeds to put in Bob's account.

9 Q. Correct, correct. Were you surprised by that?

10 A. No. My brother said he was trying to get rid of it.

11 Q. Okay. Have you participated in the sale of any real
12 estate in your life?

13 A. In my life?

14 Q. Yes.

15 A. Yes.

16 Q. Okay. And generally when somebody buys a piece of real
17 estate, you go to a closing?

18 A. Correct.

19 Q. The buyer pays with his own checks, correct?

20 A. Uh-huh, yes.

21 Q. You weren't surprised that Mr. Lindsay was sending you
22 this check?

23 A. No. He wanted to put it in my brother's account.

24 Q. All right, now, you dealt with Mr. Flowers concerning your
25 brother's tax returns; is that correct?

1 A. Correct.

2 Q. Did you assist him in filing a tax return for Sports Off
3 Shore?

4 A. No.

5 Q. Were you aware that no tax returns were filed for Sports
6 Off Shore?

7 A. No.

8 Q. You weren't aware of that?

9 A. No. I only handled my brother's personal.

10 Q. Well, you handled more than his personal. You handled his
11 business, correct? Many of the bills that you were paying --

12 THE COURT: You need to wait for an answer.

13 MR. WYSHAK: Well, withdrawn.

14 Q. You handled some of his business expenses, didn't you?

15 A. I don't believe I did. They were personal credit cards,
16 not business credit cards.

17 Q. Okay, did you use a program called QuickBooks?

18 A. Yes, I did.

19 Q. As a matter of fact, you got trained on how to use
20 QuickBooks?

21 A. I did.

22 Q. And some of the expenses that you were entering into the
23 QuickBooks were expenses that you coded as business expenses,
24 weren't they?

25 A. Correct.

1 Q. Purchase of computers, computer hardware?

2 A. Uh-huh, correct.

3 Q. Software, travel, correct?

4 A. Correct.

5 Q. Okay, so those are business expenses, correct?

6 A. Correct.

7 Q. In connection with the operation of Sports Off Shore, were
8 they not?

9 A. With his consulting business, correct.

10 Q. His consulting. You still believe he's a consultant,
11 right?

12 A. Yes, sir.

13 Q. Okay. You knew that if he were the principal of Sports
14 Off Shore, he'd have to file a corporate tax return or a
15 business tax return?

16 MR. NURIK: Objection. It assumes facts not in
17 evidence, also is a mischaracterization of the law.

18 THE COURT: Sustained.

19 Q. So, Ms. Tierney, even though you've pled guilty to being
20 willfully blind to aiding and abetting him in the filing of
21 false tax returns, you still sit there and tell us you do not
22 think he's the principal of SOS?

23 A. Yes.

24 Q. Correct?

25 A. Yes.

1 Q. Okay. Did you understand that SOS was doing business in
2 the United States?

3 A. At what period?

4 Q. At any period of time.

5 A. In the earlier years.

6 Q. What are the earlier years?

7 A. The late '90s.

8 Q. And how did you have that understanding?

9 A. He was working out of his garage.

10 Q. Okay. I'm talking about Sports Off Shore, the business in
11 Antigua.

12 A. Oh, I'm sorry. It wasn't called that.

13 Q. Did you understand that Sports Off Shore, that your
14 brother when he was in Antigua was doing business in the United
15 States?

16 A. No.

17 Q. You didn't understand that?

18 A. No.

19 Q. Do you recall that he was interviewed by the
20 New York Times in 1998?

21 A. No, I don't.

22 Q. Did you see that interview?

23 A. I never did.

24 Q. You never saw that either?

25 A. No.

1 Q. Your brother gets interviewed by the biggest newspaper in
2 the country, and you don't know anything about that?

3 A. No. I don't see half of my husband's interviews.

4 Q. When did you first become aware that your brother was
5 being investigated, your brother Robert was being investigated
6 by the Federal Grand Jury?

7 A. It was -- I believe it was -- I don't remember the date.
8 I was contacted by an attorney. I don't remember the exact
9 date.

10 Q. Okay, sometime in 2009?

11 A. Yes, probably.

12 Q. And isn't that one of those red flags that you should have
13 been aware of when you knew that the government was
14 investigating your brother's illegal activity?

15 A. Yes.

16 Q. But you continued to take money from Antigua, correct,
17 manage his account, correct?

18 A. Correct.

19 Q. And continued to use the money coming in from this account
20 to pay yourself money, correct?

21 A. Correct.

22 Q. And to cover all of Mr. Eremian's personal and business
23 expenses, correct?

24 A. Correct.

25 Q. Including his family's expenses?

1 A. Correct.

2 Q. And at some point your son John Chew in the fall of 2009
3 is subpoenaed to the Federal Grand Jury; isn't that true?

4 A. Correct.

5 Q. Okay. And you cut a check to his lawyer out of this 0933
6 account, correct?

7 A. Correct.

8 Q. Why did you do that?

9 A. He had to pay his lawyer, and his uncle offered to pay for
10 it.

11 Q. Did you understand that he was being subpoenaed to the
12 Federal Grand Jury in connection with an investigation into
13 Robert Eremian?

14 A. Yes.

15 Q. Okay. And is that why you had Robert Eremian pay for your
16 son's lawyer?

17 A. My brother Robert offered to pay for the lawyer. My son
18 didn't have the money to pay for a lawyer.

19 Q. And at that time you must have been extremely aware that
20 there was something wrong in Denmark, so to speak, correct?

21 A. Correct.

22 Q. And you still continued to manage this account; you still
23 continued to take money out of it, didn't you?

24 A. I did.

25 Q. And you still continued to pay Mr. Eremian's expenses,

1 correct?

2 A. Correct.

3 Q. Until February of 2010?

4 A. Correct.

5 Q. Correct? And can you explain to the jury why, despite
6 having knowledge that your brother was under criminal
7 investigation for his activities in Antigua, you continued to
8 participate in this activity?

9 A. I was advised by my brother's attorney, who was the one
10 who informed me of this case, to continue to pay.

11 Q. Your brother's --

12 MR. HORSTMANN: Objection.

13 THE COURT: Overruled.

14 Q. Your brother's attorney?

15 A. Yes. I asked him if I should stop, and he said, "Continue
16 what you're doing."

17 Q. How about your husband?

18 MR. NURIK: Objection.

19 MR. STERN: Objection, your Honor.

20 THE COURT: Sustained.

21 Q. He's a lawyer, right?

22 A. He was.

23 Q. Well, is he no longer a member of the Bar --

24 A. No, he's a member of the Bar.

25 Q. -- of Massachusetts?

1 A. He's not a practicing lawyer.

2 Q. He's certainly somebody who's available for you to consult
3 with concerning legal matters, correct?

4 A. Correct.

5 Q. Yet you choose to talk to your brother's lawyer, correct?

6 A. Correct.

7 Q. Somebody who's got your brother's interests in mind,
8 correct?

9 MR. NURIK: Objection.

10 THE COURT: Overruled.

11 MR. NURIK: Can we have clarification of which
12 brother.

13 THE COURT: Oh, I keep forgetting that, but I think
14 the context is always Robert Eremian unless you say otherwise
15 at this point.

16 THE WITNESS: Correct, yes.

17 THE COURT: All right.

18 Q. And would that lawyer be Jim Merberg?

19 A. Yes.

20 Q. So Jim Merberg told you to continue managing this account?

21 MR. STERN: Objection. Your Honor, may we approach
22 briefly at sidebar?

23 THE COURT: Let me just ask this: Was he providing
24 legal services to you?

25 THE WITNESS: No. He was just making the suggestion

1 that I continue what I'm doing as if nothing was wrong, and I
2 just did it, until I was told by Mr. Wyshak to discontinue.

3 Q. And you needed me to tell you that, right?

4 A. Yes.

5 Q. You couldn't figure it out on your own?

6 MR. NURIK: Objection.

7 THE COURT: Sustained.

8 Q. Do you feel that your brother Robert Eremian deceived you?

9 A. No.

10 Q. No.

11 A. I don't.

12 Q. So I guess you disagree with your husband's statements to
13 the media that you were deceived by your brother?

14 A. I don't believe either of my brothers would put me in
15 harm's way. I don't believe he deceived me.

16 Q. Try and answer the question. Do you agree with your
17 husband's statement on the courthouse steps --

18 MR. NURIK: Objection, assumes facts not in evidence,
19 your Honor.

20 THE COURT: I'll allow the question to be asked.

21 Q. Do you agree with your husband's statement on the
22 courthouse steps that you were a victim of your brother's
23 deception?

24 A. No.

25 Q. You don't agree with his statement. So you think your

1 brother has been fair and square with you?

2 A. I thought he was.

3 Q. If in fact he is the owner of SOS, he would have lied to
4 you, correct?

5 A. Correct.

6 Q. If in fact the conduct in which he was engaged in was
7 illegal, he would have lied to you, correct?

8 A. Correct.

9 Q. Do you know Todd Lyons?

10 A. I do.

11 Q. Okay. And how do you know Todd Lyons?

12 A. He went to school with both of my boys. I know him from
13 Marblehead.

14 Q. Did you know that Todd Lyons worked for your brother
15 Robert Eremian?

16 A. In the early years when my son did, yes.

17 Q. Again, when you're talking about the early years --

18 A. I'm sorry. In the late '90s.

19 THE COURT: Well, just differentiate. So are you
20 talking about the business in the garage?

21 THE WITNESS: In the garage.

22 Q. Okay. After your brother Robert went to Antigua, did you
23 know that Todd Lyons worked for him?

24 A. No.

25 Q. And what's been the nature of your relationship with

1 Mr. Lyons since your brother went to Antigua?

2 A. I haven't had a relationship with Mr. Lyons.

3 Q. Nothing.

4 A. His cousin dated my daughter, and they opened a food
5 business. I saw him there once or twice, but other than that,
6 I might have seen him at a Red Sox game once.

7 Q. Isn't it true that your daughter Carlin told you that Todd
8 worked for your brother Bob?

9 MR. NURIK: Objection.

10 THE COURT: Sustained.

11 Q. Have you ever received anything from Mr. Lyons to send to
12 Antigua?

13 A. Never.

14 Q. You sent items to Antigua; is that fair to say?

15 A. I believe I sent items to my brother to send to Antigua,
16 my brother Dan.

17 Q. Okay. Why not send them yourself?

18 A. Because he was filling a large container of sorts. It was
19 very expensive to send things to Antigua.

20 Q. Well, from time to time, though, you did ship items to
21 Antigua via FedEx; is that correct?

22 A. Yes.

23 Q. And what were those items?

24 A. I sent some jewelry items that I had made.

25 Q. Anything else?

1 A. Olive oil.

2 Q. Documents, did you ever send documents there?

3 A. I don't recall documents. There might have been some bank
4 statements that came or a credit card bill that I didn't
5 understand, and I sent it to him.

6 Q. And how would you describe your relationship with your
7 brother Dan?

8 A. My brother Dan and I have always been very friendly.

9 Q. And what did you understand he did for a living?

10 A. At what time?

11 Q. The last ten years.

12 A. He owned a restaurant in Florida, which burned to the
13 ground, and it's in litigation.

14 Q. That was a long time ago, right?

15 A. I believe it's still in litigation. I don't know how many
16 years it's been in litigation.

17 Q. The restaurant burnt down in 2003 or thereabouts?

18 A. Possibly.

19 Q. Okay, so since then, what do you understand that he does
20 for a living?

21 A. He's a professional gambler. He files his taxes as a
22 professional gambler.

23 Q. Okay, but you didn't know he had any connection with SOS;
24 is that your testimony?

25 A. No, except to ship supplies to my brother.

1 Q. Okay. And you have constant communication with him, don't
2 you?

3 A. With Dan?

4 Q. With your brother Daniel?

5 A. Constant? No.

6 Q. Well, if I told you there was over a hundred telephone
7 calls between your brother and yourself in 2009, would that
8 surprise you?

9 THE COURT: Your brother Daniel.

10 A. My brother Dan? No, it wouldn't surprise me. My mother
11 was very ill.

12 Q. Did you ever directly ask your brother Robert Eremian
13 regarding the legality of his activities in Antigua?

14 A. No.

15 Q. No? You're sure about that, Ms. Tierney?

16 A. I'm sure.

17 Q. You didn't tell your lawyer that you asked your brother --

18 THE COURT: You can't ask about what she told her
19 lawyer.

20 MR. WYSHAK: I think it's a waiver because it was
21 communicated to me.

22 THE COURT: All right, you can make that proffer.

23 Q. Did you tell your lawyer that you asked your brother about
24 the legality of what he was doing, and he told you you didn't
25 want to know?

1 A. I don't recall that.

2 Q. You deny that you said those words to Mr. Stern?

3 A. I don't recall I said those words.

4 Q. Well, you would recall if you had a conversation with your
5 brother about, "Is this legal?" and he told you, "You don't
6 want to know." That would be one of those red flags, right?

7 A. It would be, but I don't recall.

8 Q. Okay, you don't recall having the conversation with your
9 brother, or you don't recall telling Mr. Stern that?

10 MR. NURIK: Clarification.

11 THE COURT: Daniel Eremian?

12 MR. WYSHAK: I'm sorry.

13 Q. Do you recall --

14 A. I don't recall --

15 MR. NURIK: Which brother?

16 Q. -- having that conversation with Robert Eremian? Is that
17 what you don't recall?

18 A. I do not recall.

19 Q. You don't recall?

20 A. No.

21 Q. And you don't recall telling your lawyer that?

22 MR. STERN: Objection, your Honor.

23 THE COURT: Sustained, asked and answered.

24 MR. WYSHAK: I have nothing further, your Honor.

25

1 CROSS-EXAMINATION BY MR. NURIK:

2 Q. Good morning.

3 A. Good morning.

4 Q. We met outside for the first time just before court today?

5 A. Correct.

6 Q. We've never spoken before?

7 A. Never.

8 Q. May I call you Patrice?

9 A. You may.

10 Q. Patrice, with respect to the bank account that Mr. Wyshak
11 asked you numerous questions, I want to focus on my client who
12 is on trial, Dan Eremian. Did you ever pay him any money out
13 of that account?

14 A. No, never.

15 Q. Did he have anything to do with that account?

16 A. No, nothing.

17 Q. Did he have any records of that account, to your
18 knowledge?

19 A. No.

20 Q. Did you ever send him anything regarding that account?

21 A. Never.

22 Q. As far as you know, did he even know of the existence of
23 that account?

24 A. I believe he knew of the existence because I would have to
25 pay a kid's bill, or, you know, we'd talk about that.

1 Q. In fact you took care of a lot of the children in the
2 family -- specifically, Bob Eremian's children --

3 A. Correct.

4 Q. -- as a result of some difficult family circumstances,
5 correct?

6 A. Correct.

7 Q. And Dan was aware of that, correct?

8 A. Correct.

9 Q. And he knew that as a result, you were making payments for
10 all sorts of things for Bob's kids, correct?

11 A. Correct.

12 Q. In fact this was necessitated as a result of Bob's
13 estranged wife Lauren developing a substance abuse problem,
14 correct?

15 A. Correct.

16 Q. She went into rehab?

17 A. Correct.

18 Q. And as a result, Bob now didn't have anybody to take care
19 of the problems that the family had, correct?

20 A. Correct.

21 Q. For that matter, there were all sorts of payments that
22 needed to be made of family bills?

23 A. Correct.

24 Q. There were all sorts of things that needed to be taken
25 care of for the children?

1 A. Correct.

2 Q. And Bob had four children, correct --

3 A. Correct.

4 Q. -- at the time? He had a daughter Amy?

5 A. Correct.

6 Q. Who has since passed away from a drug overdose?

7 THE COURT: You know, do we have to disclose this
8 personal stuff?

9 MR. NURIK: I think it is necessary, your Honor. I'm
10 not going to spend much time, but I'd like the opportunity.

11 THE COURT: I don't know what other personal things
12 are coming out about the children, so please don't mention
13 names. At some level --

14 Q. Well, needless to say, a number of the children themselves
15 had substance abuse problems, correct?

16 A. Correct.

17 Q. Okay. And Bob was going back and forth between Antigua
18 and the United States?

19 A. Correct.

20 Q. And he needed help with his family?

21 A. Correct.

22 Q. And you were the one that he could trust the most to help?

23 A. Correct.

24 Q. And in that regard, he put you in charge of the bank
25 account that was in Massachusetts?

1 A. Correct.

2 Q. And as a result, you kept very detailed records of that
3 bank account, correct?

4 A. Yes.

5 Q. In fact, you said that you learned QuickBooks?

6 A. Yes.

7 Q. And you kept detailed QuickBooks records, correct?

8 A. Yes.

9 Q. And as a result, you were familiar generally, even as you
10 sit here now, the types of things that you paid out of that
11 account?

12 A. Yes.

13 Q. Now, Mr. Wyshak brought out that close to \$5 million
14 actually went into that account in deposits. Do you recall
15 that?

16 A. Into my brother's account.

17 Q. Yes.

18 A. Yes.

19 Q. Okay, and brother for purposes of this, we'll talk about
20 Bob Eremian.

21 A. My brother Bob. Not the household account.

22 Q. Right. Now, actually, the time that you managed the
23 account and that you kept QuickBook records of that account --
24 that is, the main account -- actually \$4,828,000 went into that
25 account? Does that sound about right?

1 A. About right.

2 Q. Okay, just to aid you, I'm going to show you your
3 QuickBook records. Take a look at that to refresh your
4 recollection.

5 (Witness examining documents.)

6 Q. Okay?

7 A. Uh-huh, yes.

8 Q. Now, there was several sources of money that came into
9 that account, correct? You got checks, correct?

10 A. Right.

11 Q. You also got wires?

12 A. Correct.

13 Q. And these came from Antigua?

14 A. Correct.

15 Q. And the checks came from Antigua?

16 A. Correct.

17 Q. There were also hundreds of thousands of dollars that came
18 in as a result of a settlement because one of Bob Eremian's
19 lawyers, prior lawyers, had stolen money from him, correct?

20 A. Correct, yes.

21 Q. Had stolen about a half a million dollars, correct?

22 A. Correct.

23 Q. And that money was repatriated into the account, correct?

24 A. Correct.

25 Q. Now, what the government asked you about was the money

1 that went in. Let's talk about some of the money that went
2 out. Isn't it a fact that in actuality over \$3 million was
3 paid for taxes to the United States Treasury out of that
4 account?

5 A. Correct.

6 Q. In fact, there were payments made every year by you. You
7 signed the checks to the United States Treasury, which
8 represented payments you were directed to make to pay taxes on
9 the income that Bob Eremian made from his activities in
10 Antigua, correct?

11 A. Correct.

12 Q. And you alone paid \$2.4 million in those checks to the
13 IRS, correct?

14 THE COURT: That's unclear, that question.

15 Q. When I say "you alone," meaning --

16 THE COURT: Her personal taxes?

17 MR. NURIK: No. I apologize, your Honor.

18 Q. You signed checks on behalf of Bob Eremian to pay his
19 taxes to the Internal Revenue Service?

20 A. Correct.

21 Q. And the checks that you signed that you recall during the
22 years that you were involved was \$2.4 million; actually,
23 specifically \$2,403,552.76, correct?

24 A. I don't remember the amount, but --

25 Q. Okay, let me show you this and see if this refreshes your

1 recollection.

2 A. They were quarterly payments, so I --

3 (Witness examining document.)

4 A. Correct.

5 Q. And in addition, you're aware that in 2009, other payments
6 were made, bringing the total amount to \$3.5 million, correct?

7 A. I don't remember the amounts. This is my brother's tax
8 payments? It would be four payments? I don't remember the
9 exact amount.

10 Q. But there were additional amounts?

11 A. Yes.

12 Q. So there were amounts over the \$2.4 million that were
13 paid?

14 A. Yes.

15 Q. Now, in addition to money paid for the Internal Revenue
16 Service out of that account on behalf of Bob Eremian, I believe
17 you told Mr. Wyshak that money was paid to charities.

18 A. Yes.

19 Q. In that regard, you said that money was sent to a Bill
20 Clinton charity?

21 A. Correct.

22 Q. You recall money being paid also for Haitian relief fund?

23 A. Correct.

24 Q. Do you recall money also being paid, over \$60,000 to rehab
25 centers to keep rehab centers open?

1 A. Correct.

2 Q. Hundreds of thousands of dollars were paid to charities?

3 A. Correct.

4 Q. I need more room up here. Cancer research, Dan Farber
5 Foundation?

6 A. Correct.

7 THE COURT: Dana.

8 MR. NURIK: I'm sorry, Dana.

9 Q. 911 Fund?

10 A. Correct.

11 Q. Do you remember that? St. Margaret's Church, do you
12 remember that?

13 A. Correct.

14 Q. Santa's Little Helper donations?

15 A. Correct.

16 Q. Autism Research Foundation?

17 A. Correct.

18 Q. In addition, were you aware that Bob Eremian was making
19 donations to schools in Antigua?

20 A. Yes, I was.

21 Q. That he was helping building up the infrastructure there?

22 A. Yes.

23 Q. Now, initially when you became involved with this account,
24 you spoke to Mr. Flowers, the accountant?

25 A. Correct.

1 Q. And you were aware of a number of things that had been
2 developing which gave you a sense of comfort in getting
3 involved in managing this money?

4 A. Correct.

5 Q. One of those things that I think you told us on direct was
6 that you had learned that your brother Robert Eremian had
7 gotten permission from the Court to go work for SOS, correct?

8 A. Yes. I saw the memorandum.

9 MR. WYSHAK: I object to that characterization.

10 THE COURT: Sustained.

11 Q. Didn't you testify to that on direct examination?

12 A. Yes.

13 MR. WYSHAK: I object. It's hearsay.

14 THE COURT: Sustained.

15 MR. NURIK: Judge, she testified in response to his
16 question.

17 THE COURT: Sustained as to the way that was asked.

18 MR. NURIK: All right. May I have this marked as my
19 next exhibit.

20 THE COURT: Have you shown it to the government? Do
21 you know what it is?

22 MR. WYSHAK: Can we have a sidebar, your Honor?

23 THE COURT: How much longer do you have?

24 MR. NURIK: Oh, I have a while.

25 THE COURT: Good, so why don't we pass this by, and

1 we'll do this at the break. Or do you need to do it right now?

2 MR. NURIK: I was going to do it right now.

3 THE COURT: All right, well, let me see you.

4 SIDEBAR CONFERENCE:

5 THE COURT: You can ask her if she's seen it.

6 MR. WYSHAK: Without identifying what it is, your
7 Honor --

8 THE COURT: Right.

9 MR. WYSHAK: -- because I don't believe there's --

10 THE COURT: It's clearly admissible as a court
11 document, but it's an impermissible inference that that shows
12 that SOS was doing what it was doing here in Massachusetts.

13 MR. WYSHAK: Exactly. Mr. Eremian's representation to
14 Judge Tauro and to the U.S. Attorney's office was, again, that
15 he was just a computer consultant, not the owner, not the
16 operator. He lied to Probation about what he was doing, and
17 they should not be able to profit --

18 THE COURT: Excuse me, excuse me. I'm going to allow
19 him to ask whether she's ever seen this before without your
20 saying what it is. I will deal at another point whether it's
21 admissible for another purpose.

22 MR. NURIK: She did testify on direct examination --

23 THE COURT: I don't know exactly how it's worded, but
24 the way you've asked the question, it was as if Judge Tauro
25 allowed him to do this kind of gambling the way you worded it.

1 I don't remember how it came out, but I'm not going to allow
2 that impermissible inference that a judge of this court
3 permitted the kinds of activities that went on.

4 MR. NURIK: Well, wait. All I am saying is and all
5 this document says, that based upon the representations of what
6 Mr. Eremian and his counsel said he was doing, he was given
7 permission to go. The government obviously has argued and will
8 continue to argue --

9 THE COURT: Excuse me. You're not doing it through
10 this witness unless she's seen it.

11 MR. NURIK: Well, she has seen it.

12 THE COURT: Well, I don't know that.

13 MR. NURIK: Well, that's what I didn't have a chance
14 to --

15 MR. WYSHAK: No. When did she see it? Not at the
16 time it was created. What, did you show it to her?

17 MR. NURIK: No. Wait till you hear the testimony.

18 THE COURT: Well, I will hear what the testimony is
19 and then make certain judgments, but the one thing you are not
20 doing is making an inference to this jury that Judge Tauro or
21 Pamela Lombardini expressly permitted him to do the kind of
22 gambling activities that it is undisputed were happening in
23 this Commonwealth.

24 MR. HORSTMANN: What about willful blindness?

25 MR. NURIK: Hold on. I'm not saying anything other

1 than what is in this document.

2 THE COURT: The way you asked it was misleading.

3 (End of sidebar conference.)

4 MR. NURIK: May I continue?

5 THE COURT: Yes, without -- just show it to her.

6 MR. NURIK: Well, let me have it marked first.

7 THE COURT: For identification.

8 MR. NURIK: Yes.

9 (Document marked for identification.)

10 BY MR. NURIK:

11 Q. Let me show you a document marked for identification and
12 ask you if you have ever seen this document before.

13 (Witness examining document.)

14 A. Yes, I have.

15 Q. When have you seen the document?

16 A. I saw it in 2002 after my brother received it.

17 Q. How did you come to see it?

18 A. He showed it to me.

19 Q. Okay, your brother meaning --

20 A. My brother Bob.

21 Q. Bob Eremian, okay. And you read it back then?

22 A. I did.

23 Q. Okay, do you recall from looking at it now that it is in
24 fact the same document you read back then?

25 A. Correct.

1 MR. NURIK: I'd like to offer it into evidence at this
2 point.

3 THE COURT: All right, I'll take that under
4 advisement.

5 Q. Well, let me ask you this: At the time, were you made
6 aware through your brother that he had been permitted --

7 MR. WYSHAK: Objection.

8 THE COURT: Let me hear the question.

9 Q. -- to return to Antigua to work for SOS as a software
10 consultant?

11 A. Correct.

12 MR. WYSHAK: Objection.

13 THE COURT: Sustained.

14 Q. As a result of receiving this document, did it give you
15 the comfort that you wanted or you needed in order to continue
16 to do the things you did for the account?

17 MR. WYSHAK: I object. It assumes facts in evidence
18 that she needed comfort.

19 THE COURT: Overruled. I'll allow this as to her
20 understanding at the time she was engaging in this banking
21 activity for her brother.

22 A. Yes, it did.

23 Q. Was your understanding that your brother had permission to
24 return to Antigua to operate as a software consultant for
25 Sports Off Shore?

1 A. Yes, it was.

2 THE COURT: Now, remember, that's not for the truth of
3 it. It's as to what her thought process was at the time.

4 Q. Now, you also were aware, were you not, that Sports Off
5 Shore in Antigua was licensed?

6 A. Yes.

7 Q. Okay. And at the time you were led to believe that as a
8 result of being licensed, that the activity that the company
9 was engaging in was legal?

10 A. Yes.

11 Q. And the handling of the account that you were involved in
12 that received money from the activities of Sports Off Shore,
13 you took and kept very accurate records?

14 A. Yes.

15 Q. Other than the issue that you pled guilty to, which was
16 mischaracterizing moneys earned as commissions, was everything
17 else that was put into your records absolutely accurate?

18 A. I tried my best, yes.

19 Q. There was no attempt to hide anything?

20 A. No.

21 Q. Everything was transparent?

22 A. Very transparent.

23 Q. Okay. The checks that were made out to certain places
24 were all properly identified?

25 A. Yes.

1 Q. The money that was received was properly identified?

2 A. Yes.

3 Q. Okay. Was there any attempt to hide the names on the
4 account?

5 A. No.

6 Q. Okay. In fact, the account was opened in the name of
7 Patrice Tierney and Robert Eremian?

8 A. Yes.

9 Q. Okay. Now, you told the ladies and gentlemen of the jury
10 that you were involved in shipping some things to Antigua?

11 A. Yes.

12 Q. You had been to Antigua how many times?

13 A. I believe five.

14 Q. And from what you learned from being there and from your
15 conversations with your brother, is it fair to say that in
16 Antigua --

17 THE COURT: Which brother?

18 MR. NURIK: Very good.

19 Q. Robert Eremian. It's fair to say that just about
20 everything needs to be brought in or imported into Antigua?

21 A. Yes.

22 Q. Okay. Any goods, any appliances, anything you need to
23 live a normal life, you've got to import it in or pay
24 exorbitant prices in Antigua, correct?

25 A. Correct.

1 THE COURT: Just I'm trying to get a sense of
2 scheduling. How much longer do you have?

3 MR. NURIK: Oh, I think we should break now, your
4 Honor.

5 THE COURT: Yes, enough is enough. She's been on for
6 two hours. We'll take our break, 11:00 to 11:30 we'll be back.

7 (Jury excused.)

8 THE COURT: Can I see counsel just on scheduling and
9 that one evidentiary matter.

10 SIDEBAR CONFERENCE:

11 THE COURT: Let me start with the easy part first.
12 How much longer do you have?

13 MR. NURIK: Well, I'd like to be accurate. Twenty
14 minutes.

15 THE COURT: It doesn't have to be precise. And do you
16 have much?

17 MR. HORSTMANN: Not very much.

18 THE COURT: All right. And will you have some
19 redirect?

20 MR. WYSHAK: Very little, but, you know, it's unclear.

21 THE COURT: So say we're done in the vicinity of 12:00
22 to 12:15.

23 MR. WYSHAK: I'm going to have Mr. Olsen.

24 THE COURT: Olsen again is the --

25 MR. WYSHAK: He's a Florida agent who dealt with Dan.

1 THE COURT: I see. So don't forget, we're going to
2 like in the vicinity of 4:00. So who else would you have?

3 MR. WYSHAK: We're going to finish with Mr. Craffey.

4 MR. FISHER: He's the accountant.

5 THE COURT: The accountant, okay.

6 MR. WYSHAK: And then we have Sandra Lemanski. She'll
7 be our last witness.

8 THE COURT: Oh, she's going to be your last witness.

9 MR. WYSHAK: Yes. So we'll probably rest tomorrow.

10 THE COURT: You need some witnesses.

11 MR. NURIK: I don't have anybody till Monday.

12 THE COURT: See what you can get.

13 MR. NURIK: I can't get a soul. They're all from out
14 of town.

15 THE COURT: How about yours?

16 MR. HORSTMANN: My investigator is down in Florida
17 now. She flies back on Saturday.

18 MR. NURIK: Well, we do have a charge conference.

19 THE COURT: Yes, maybe we'll just do the charge
20 conference if we have to.

21 MR. HORSTMANN: And Rule 29.

22 THE COURT: Huh?

23 MR. HORSTMANN: Rule 29. There's a lot to discuss.

24 THE COURT: Let me just put it this way: There's no
25 way on earth I am ruling on the complexity of the issues here

1 on a Rule 29 before the close of all the evidence. You can
2 make the argument, but it's different than my ruling on it. I
3 haven't seen a brief. I just for the first time -- please,
4 I've been begging for your theory of the case. Other than good
5 faith, which is a fact question, I haven't heard it. So if
6 there are legal nitpicks here, I don't know it, and I'm not
7 going to sort of rule off the cuff. That's not going to
8 happen. So, ideally, when can I have a brief on it?

9 MR. HORSTMANN: I will get you something tonight. I
10 was planning on tomorrow, but I'll get it to you tonight.

11 THE COURT: I have little hints for a couple of things
12 on your objections to the jury instructions, but, I mean, even
13 those are fact-based like the safety valve issue, you know,
14 whether or not it was legal in one place and illegal in
15 another.

16 MR. HORSTMANN: I think the big issue is the Internet
17 portion of the gambling and that the government hasn't
18 differentiated between the two as to any count or any better.

19 THE COURT: Can I saying something? Every single time
20 you throw up the SOS card with the big 800 number on it, I'm
21 not sure that helped you, so let me just --

22 MR. HORSTMANN: But I don't have the burden.

23 THE COURT: I'm just -- so we think we're going to be
24 done, Mr. Stern, this morning with her.

25 MR. STERN: Okay, good.

1 THE COURT: Maybe 12:15 or something. But on the
2 document, here's my concern about it: It's an official record
3 of the court. I mean, it's relevant and it's authentic and
4 would normally come in. The concern that I have -- and it sort
5 of places timing and when he went. It's relevant as a business
6 record or a public record. My concern is, any implication that
7 Judge Tauro blessed this by letting him go is inappropriate,
8 and that is essentially the inference you're seeking to leave.
9 So I'm inclined to let it in but with some sort of curative
10 instruction.

11 MR. WYSHAK: Well, your Honor, the bottom line with
12 this is, if that goes in, we're going to have a mini-trial here
13 because Pam Lombardini --

14 THE COURT: Fine, bring her in. I know Pam. I knew
15 her in Essex County, and I knew her here, so --

16 MR. WYSHAK: The members of the U.S. Attorney's office
17 specifically talked to Mr. Merberg. They brought the case that
18 I gave to your Honor last night, the Cohen case, to
19 Mr. Merberg's attention, told Mr. Merberg this SOS business has
20 customers in the United States.

21 THE COURT: You may have to --

22 MR. WYSHAK: So we're going to have a whole trial
23 about this.

24 THE COURT: You may have to. You may have to. But
25 it's good you warned them because then that's going to be their

1 call. But what I'm not going to let happen, especially with
2 the entire press corps out there, is for you to make the
3 argument that Judge Tauro of this court said it was okay or the
4 Probation Office of this court, and that was the implication
5 that was left in how you asked it.

6 MR. WYSHAK: And to the extent that it's relevant for
7 her state of mind --

8 THE COURT: Well, you asked about state of mind. I'll
9 let him ask about state of mind.

10 MR. WYSHAK: Right, but he wants to offer this
11 document, obviously, for the truth of its contents, and part of
12 what's missing in this document is the representations made by
13 Mr. Merberg and Robert Eremian to Judge Tauro and to the U.S.
14 Attorney's office. It's not contained in there, and --

15 THE COURT: That's right. I'm glad you were on that.
16 So you think about whether you really want this in because I
17 will let them put on Ms. Lombardini and I will let them put
18 on -- who's the prosecutor?

19 MR. WYSHAK: Mr. Auerhahn.

20 THE COURT: I think you -- I read that. You gave it
21 to me before trial, and I'm very glad I had it in advance
22 because I thought about it. And I would give some sort of
23 cautionary instruction that that is not evidence as to what was
24 told to Judge Tauro or that he had any knowledge at all about
25 what we've heard because what I've heard here, some of it is

1 plainly illegal, and the notion that Judge Tauro permitted this
2 would be incorrect.

3 MR. NURIK: Well, I would --

4 THE COURT: Some of it. I'm not saying -- I
5 understand you have some technical arguments about the
6 Internet, but a lot of it was over the phone.

7 MR. NURIK: It would not be my intention in any way,
8 shape, or form to disparage the court or misrepresent what the
9 court knew. The document is very specific. The government has
10 its opportunity to argue what it wishes to argue regarding the
11 document, but it is in fact an official court document; and
12 whether we opened the door or not, with every witness that has
13 come into this courtroom that they have called, they have asked
14 about their state of mind and their own belief regarding
15 whether it was legal or not. This document bears on the state
16 of mind and is relevant to that issue.

17 Now, at the end of the day, you should know that the
18 U.S. Attorney's office was fully aware by a memo that was
19 issued by an IRS agent back in the late '90s, actually, back
20 around the time of 2000, in which he identified all of the
21 issues that are of concern to the government in this case; in
22 other words, that the activities were an on-the-ground
23 operation. I have a copy of that memo. I can show it to you.
24 It's Agent Howe's memo.

25 THE COURT: Do you have it?

1 MR. WYSHAK: Yes, and what Mr. Eremian told Agent Howe
2 was, "In 1997 I went down to Antigua and started this business
3 and went bankrupt in the first year. And since that time I'm a
4 computer consultant, and there are other people who I don't
5 know their names who are running this business," and clearly
6 separated himself from the ownership and operation of this
7 business, except to the extent that he had sold them a software
8 package and was maintaining the computer software.

9 THE COURT: I am simply saying this: This is
10 relevant. It is a business record. I will allow this in, but
11 I would do this with a curative instruction that there is no
12 evidence that Judge Tauro understood the full scope of what was
13 happening that you've heard about in this trial, because the
14 one thing that's undisputed is all these hundreds of thousands
15 of dollars of cash collections in paper bags and people placing
16 calls. There is no idea, nothing that I think either Pam
17 Lombardini or Judge Tauro would have known about that based on
18 what you've just told me.

19 MR. NURIK: And I don't have any evidence to the
20 contrary. I will say, however, I do have evidence to the
21 contrary that the U.S. Attorney's office knew about it.

22 THE COURT: I'll leave that for where it is, and we
23 may have to get into a mini-trial.

24 MR. NURIK: And they did not object.

25 THE COURT: But I'm going to tell them that this is

1 not in any way to be construed as Judge Tauro approving the
2 activities that they heard about at this trial. So if you want
3 that curative instruction --

4 MR. NURIK: So we have to decide, if we want to offer
5 it in, you're going to give that curative instruction?

6 THE COURT: Yes, that's exactly right, so --

7 MR. STERN: I have a different question I want to
8 raise.

9 THE COURT: All right, go ahead.

10 MR. STERN: Are you finished with this?

11 MR. HORSTMANN: Yes. Thank you.

12 MR. STERN: This just has to do with the question that
13 Mr. Wyshak asked Mrs. Tierney about conversations with me.
14 Remember that towards the end?

15 THE COURT: Yes, yes.

16 MR. STERN: We have a disagreement as to what
17 representations, if anything, I said.

18 THE COURT: The "You don't want to know"?

19 MR. STERN: Right, right.

20 THE COURT: "You don't want to know."

21 MR. STERN: And I told Mr. Wyshak this morning when we
22 talked about that, that was not my memory of our conversation.
23 It was a different conversation. So I just want to make it
24 clear --

25 THE COURT: So what do I do with that?

1 MR. NURIK: I may have to call Mr. Stern as a witness.

2 MR. WYSHAK: Actually, you know, your Honor, it was
3 very clear to me. When we were discussing whether there was a
4 factual basis for Ms. Tierney to plead to aiding and abetting
5 the filing of false tax returns, I had a very clear
6 conversation with Mr. Stern that he was comfortable with the
7 plea because she had admitted to him she asked her brother
8 about the legality of what he was doing, and she was told, "You
9 don't want to know," and Mr. Stern felt that that amounted to
10 willful blindness. Now, the other day when I told him I was
11 going to ask her about that conversation, he had no
12 recollection of it. This morning he calls me and says, "Yeah,
13 now I recollect, but it had to do with her making payments."

14 MR. STERN: Well, I recollect after talking with my
15 client that there was a discussion about something similar but
16 not that. I have no --

17 THE COURT: Well, do you remember what it --

18 MR. STERN: Yes.

19 MR. WYSHAK: It may have been something similar.

20 THE COURT: Let me just ask, without disclosing an
21 attorney-client privilege, is --

22 MR. STERN: What I said to Mr. Wyshak this morning was
23 that I now recall that we likely had a discussion that she had
24 questioned her brother Bob about certain payments for the kids,
25 whether she should make these payments, and he on several

1 occasions in a very testy way said, "Those are fine. It's none
2 of your business. It has to do with payments for the
3 children."

4 MR. WYSHAK: And that doesn't even make sense.

5 THE COURT: Well, this is the way this can be handled:
6 Either someone asks her to go into greater length as to the
7 context of it -- he's not a lawyer in the case so he can't do
8 it -- or possibly, I don't know if that injects you into the
9 trial.

10 MR. NURIK: Which is the problem in allowing the
11 testimony to begin with.

12 MR. HORSTMANN: Judge, aren't these inadmissible
13 settlement discussions?

14 THE COURT: Well, it's not a civil case. I don't
15 know --

16 MR. HORSTMANN: I don't think the rule is limited.

17 MR. WYSHAK: She's not a defendant in this case.

18 THE COURT: I don't know.

19 MR. WYSHAK: She's a witness being called by the
20 government.

21 THE COURT: I don't know, but the truth is, it came in
22 without objection.

23 MR. NURIK: I request that the Court to strike it and
24 admonish the jury to disregard it.

25 THE COURT: No. At this point I have no basis for any

1 of that. It came in without objection.

2 MR. NURIK: I thought I objected to it.

3 THE COURT: Maybe you did.

4 MR. WYSHAK: And she hasn't even denied it.

5 THE COURT: I don't remember that.

6 MR. WYSHAK: She just said, "I don't remember," like
7 she doesn't remember ninety percent of whatever else went on,
8 so --

9 THE COURT: That goes to the credibility of the
10 witness. I don't remember whether you objected. We could find
11 out. I don't know. That will be for the record.

12 MR. WYSHAK: But I am very concerned about --

13 THE COURT: Mr. Horstmann is quick. He's looking this
14 up.

15 MR. HORSTMANN: It bothered me at the time.

16 THE COURT: Settlement discussions are civil, but I
17 don't know anything about the plea colloquy discussions.

18 MR. WYSHAK: Clearly if during the course of plea
19 discussions with the defendant, if the defendant makes
20 admissions to his lawyer --

21 THE COURT: Is there a proffer letter or something?

22 MR. WYSHAK: I couldn't use it against her if we were
23 prosecuting her and she got up on the witness stand, but this
24 is an entirely different matter where she's a witness in
25 another case. She's not a party.

1 THE COURT: I don't know. Just like that Exhibit 61
2 where I have gained a huge amount of insight after doing legal
3 research and thinking about it and hearing subsequent
4 testimony, I'm not going to shoot from the hip on this one.
5 I've already ruled. I'm leaving it alone. How we deal with it
6 subsequently, I don't know. Maybe you think about that too. I
7 don't know what I do. I mean --

8 MR. STERN: Well, I think it should be -- I certainly
9 don't want to get into a mini-trial. I don't want to be a
10 witness in this case.

11 THE COURT: She said she didn't remember it, right?

12 MR. STERN: Right.

13 THE COURT: So I'll just remind them that questions in
14 a -- what I would propose is just say, "With respect to
15 anything having to do with her attorney, she didn't remember
16 it, and, remember, any information in a question is not
17 evidence in the case and you cannot consider it." That is my
18 proposal. Think about it, take a break, and let's hope we
19 finish this soon.

20 (End of sidebar conference.)

21 (A recess was taken, 11:15 a.m.)

22 (Resumed, 11:44 a.m.)

23 MR. HORSTMANN: Judge, may I be heard briefly at
24 sidebar?

25 THE COURT: Well, can't you just say it so we don't

1 take the -- what's the issue?

2 MR. HORSTMANN: Rule 410, your Honor, precludes the
3 introduction of any plea discussions, and at the time that
4 the --

5 THE COURT: Rule 410? I'll look at it. Thank you.

6 MR. HORSTMANN: I'd move to strike.

7 THE COURT: Well, there's nothing to strike. It was
8 just a question.

9 MR. NURIK: Your Honor, I'd request that you give that
10 curative instruction concerning that.

11 THE COURT: I'm not doing anything until I read it,
12 okay, so let's just get them in here, and then I'll --

13 (Jury enters the courtroom.)

14 THE COURT: Okay, Mr. Nurik.

15 MR. NURIK: Thank you, your Honor.

16 THE COURT: Thank you.

17 BY MR. NURIK:

18 Q. Patrice, when we left off, I believe I was asking you
19 about products in Antigua and the difficulty of getting things
20 and buying things in Antigua. Do you remember that?

21 A. Yes.

22 Q. Okay. And with respect to your job of taking care of that
23 account, did you from time to time see that there were
24 purchases being made by credit cards for things, goods that
25 ultimately had to get shipped to Antigua?

1 A. Yes.

2 Q. And some of these things were tools, correct?

3 A. Yes.

4 Q. Some of these things were equipment, correct?

5 A. Yes.

6 Q. Televisions, appliances?

7 A. Yes.

8 Q. Okay, the types of things that people use when they are
9 living ordinary lives, even here?

10 A. Yes.

11 Q. You also saw that there were times that equipment was
12 being shipped in large containers?

13 A. I didn't see it.

14 Q. But you knew about it?

15 A. Yes.

16 Q. You also knew there were times things were being shipped
17 by FedEx's and other means, correct?

18 A. Yes.

19 Q. And from time to time you would actually look at these
20 expenditures, the credit card expenditures, and question your
21 brother Bob about them, correct?

22 A. Yes.

23 Q. Correct?

24 A. Yes.

25 Q. And the reason was, because you really wanted to keep an

1 accurate reflection of what was going on?

2 A. Yes.

3 Q. And you wanted to make sure that if something was being
4 bought, you knew that it was a legitimate expense that Bob had
5 authorized?

6 A. Yes.

7 Q. And you wanted to know what it was for so you could
8 pigeonhole it in your QuickBooks, correct?

9 A. Yes.

10 Q. Now, you knew that your brother Dan was receiving some of
11 these things directly when they were purchased to be shipped on
12 to Antigua, correct?

13 A. Correct.

14 Q. You also knew that your brother Bob had two other
15 businesses in Antigua besides being involved with SOS, correct?

16 A. Correct.

17 Q. Let's talk about those. First of all --

18 MR. WYSHAK: Objection. Can we ask the basis of the
19 knowledge?

20 MR. NURIK: Well, I'm going to ask her that.

21 THE COURT: He can ask.

22 Q. Were you aware, for example, when you were in Antigua that
23 your brother Bob was setting up a helicopter charter service?

24 MR. WYSHAK: Objection. How? It calls for a --

25 THE COURT: Excuse me. Overruled. Yes or no, and

1 then you will ask how, all right? Are you aware of that one
2 way or another?

3 THE WITNESS: Yes.

4 Q. How were you aware of it?

5 A. I saw the helicopter. I rode in the helicopter with my
6 mom.

7 Q. And you learned from doing that and from your
8 conversations with Bob that Bob had purchased that helicopter,
9 correct?

10 A. Correct.

11 Q. And that that helicopter was going to be used for a
12 business he was setting up to transport people around the
13 island sightseeing?

14 A. Correct.

15 Q. And in fact you went on one of those sightseeing tours
16 yourself?

17 A. Correct.

18 Q. Were you aware of how that helicopter was registered, by
19 the way?

20 A. No.

21 Q. You know for a fact, though, that Bob was the one that
22 purchased that, right?

23 MR. WYSHAK: I object, the basis of knowledge.

24 THE COURT: Sustained, sustained.

25 Q. Were you aware of whether or not that helicopter --

1 THE COURT: Do you know who purchased it?

2 THE WITNESS: No, I don't.

3 Q. Okay. Were you also aware of an individual when you were
4 learning about the helicopter service by the name of Peter
5 Hallam?

6 A. Yes.

7 Q. And Peter Hallam was a pilot?

8 A. Yes.

9 Q. He was going to be involved with that?

10 A. Correct.

11 Q. In addition, were you aware that Mr. Hallam was involved
12 with another business with your brother?

13 A. Yes.

14 Q. And what was that other business?

15 A. Uhm, large construction vehicles, uhm, equipment.

16 Q. Heavy machinery?

17 A. Heavy machinery, yeah.

18 Q. Okay. And how did you learn that?

19 A. I saw the pieces of equipment.

20 Q. You asked your brother about it?

21 A. Uh-huh.

22 MR. WYSHAK: Objection, calls for hearsay.

23 THE COURT: Sustained, sustained.

24 Q. Well, were you aware, for example, that that equipment was
25 being used in Montserrat as a result of the volcano?

1 MR. WYSHAK: Objection. It calls for a hearsay
2 answer.

3 THE COURT: Sustained. I will allow what she saw, not
4 what her brother told her.

5 Q. Well, you saw activity, correct?

6 A. I did see activity.

7 Q. You saw that a business was being geared up for the
8 purpose of providing heavy machinery for construction, correct?

9 A. Correct.

10 Q. And you knew that in fact some of that equipment was being
11 ordered in the United States and being shipped over by Danny?

12 A. Correct.

13 MR. NURIK: May I approach the witness?

14 THE COURT: Yes.

15 Q. Let me show you what we have marked as Defendant's
16 Exhibit 317. Take a look at those photographs.

17 (Witness examining photographs.)

18 Q. And based upon your visits to Antigua, can you say whether
19 or not those photographs fairly and accurately represent the
20 general appearance of SOS's offices or that house where the
21 office were?

22 A. Generally.

23 THE COURT: What about them is different?

24 THE WITNESS: I don't recognize this wall, this clear
25 glass. That looks like it -- that's not familiar to me.

1 Everything else, the garage and the entrance, everything else
2 is but not that.

3 MR. NURIK: Okay, I will offer into evidence all but
4 that one photograph.

5 MR. WYSHAK: No.

6 THE COURT: Excuse me. Go one by one, what it is that
7 you recognize.

8 THE WITNESS: I recognize --

9 THE COURT: First of all, did you take these pictures?

10 THE WITNESS: No.

11 MR. WYSHAK: All right, I'm --

12 THE COURT: Excuse me. Let me just go through them
13 one by one. What exhibit? We are at 317.

14 MR. NURIK: They're all a composite. If you want to
15 mark them A, B, and C, we can do that.

16 THE COURT: Yes, but she doesn't recognize one of
17 them.

18 MR. NURIK: That's right.

19 THE WITNESS: I recognize this as the dining area and
20 the garage that we would enter the house through.

21 THE COURT: Who took these pictures?

22 MR. NURIK: Your Honor, I don't know who took these
23 pictures. I have these pictures, and I believe they to be fair
24 and accurate representations. However --

25 THE COURT: Excuse me. Were they taken back then, or

1 were they taken recently?

2 MR. NURIK: I don't know when they were taken, and I'm
3 asking her to identify whether or not they're fair and accurate
4 representations, and she says there's one she doesn't, so if we
5 separate that, we can offer all the others.

6 MR. WYSHAK: Well, I object to not offering the
7 critical photo. If he wants to put the package in --

8 THE COURT: Excuse me. Overruled. If you have
9 somebody else who was there, you can ask about it, or you can
10 cross-examine based on it. So go ahead.

11 THE WITNESS: Okay, I recognize this as the -- this is
12 a patio that would have been extended, but you entered through
13 the garage to get to the patio. This is the garage that you
14 would enter into the patio. It's a very full garage. Again,
15 this is the garage with another angle of the patio where
16 furniture and dining areas were. This is the outside, the
17 exterior of the house with a gate and the garage. There's not
18 much else you can see there. And this is a fuller view of the
19 different dining areas in the enclosed patio.

20 Q. If you would please separate the one from that pile, the
21 one that you don't recognize.

22 A. Okay.

23 MR. NURIK: And I would offer the other photographs as
24 composite Exhibit --

25 THE COURT: 317, and the one -- what is it called?

1 THE CLERK: It's five photos.

2 THE COURT: Five photos. And the one that isn't make
3 it 317-A for Identification because there may be other people
4 who -- so make the other one 317-A. All right.

5 (Defendant Exhibit 317 received in evidence.)

6 (Defendant Exhibit 317-A marked for identification.)

7 MR. NURIK: May I publish them, your Honor?

8 Q. Let's go through the first photograph. Is this what the
9 outside of the house where the offices are looked like?

10 A. Yes.

11 Q. So you would go through a gate?

12 A. Yes.

13 Q. And then through a garage?

14 A. Yes.

15 Q. Okay. So the garage entrance is here?

16 A. Correct.

17 Q. And this is a view of what?

18 A. The garage.

19 Q. Okay.

20 A. And the patio.

21 Q. So as you enter the garage, you would see this. You would
22 then see an inside patio here?

23 A. Correct.

24 Q. And then you see sliding glass doors there?

25 A. I see them.

1 Q. Okay. And is that where behind that some of the office
2 activity was?

3 A. Correct.

4 Q. Okay. This is another view of what?

5 A. The garage.

6 Q. Okay. And when you were there, there was always things
7 going on like this in the garage?

8 A. Yes.

9 Q. Equipment?

10 A. Yes.

11 Q. And this view is still from the garage?

12 A. Yes.

13 Q. But this gives you a clearer view of the dining area?

14 A. Part of the dining area.

15 Q. Now, that dining area is covered but it's open air. In
16 other words, it's not under air conditioning, correct?

17 A. Correct.

18 Q. And that's the dining room table right there?

19 A. Yes.

20 Q. Okay, is that where you had dinner?

21 A. Yes.

22 Q. Okay. And then this is another view of the dining room
23 table, and then you can see the sliding doors there?

24 A. Correct.

25 Q. Where the office activity took place?

1 A. Correct.

2 Q. Now, the government had shown you a summary chart and
3 asked you questions concerning a large amount of money that
4 they suggested you received from the account. Do you remember
5 that testimony?

6 A. I remember the chart, yes.

7 Q. Okay. Now, in that amount of money that they showed you,
8 is it fair to say that you were paid for things other than
9 gifts? For example, you were reimbursed for expenditures you
10 had made?

11 A. Yes.

12 Q. Now, you were serving essentially as the rock of the
13 family, correct?

14 A. Correct.

15 Q. You were taking care of Bob's kids?

16 A. Correct.

17 Q. Taking care of the household?

18 A. Correct.

19 Q. Trying to help Bob with paying for all of the rehabs that
20 kids were in?

21 A. Correct.

22 Q. Taking care of problems with the estranged wife?

23 A. Correct.

24 Q. Okay. And at the same time you were waiting hand and foot
25 on your mother who was ill, correct?

1 A. Correct.

2 Q. You heard questions from Mr. Wyshak regarding phone calls
3 you had in 2009 with my client, Danny?

4 A. Yes.

5 Q. And it was suggested that in a period of twelve months,
6 you may have spoken to him ten or more times a month?

7 A. Correct.

8 Q. Over a hundred times, correct?

9 A. Correct.

10 Q. And I believe you responded to him by saying that at that
11 time your mother was seriously ill, correct?

12 A. Correct.

13 Q. Did she ultimately pass away?

14 A. Yes.

15 Q. Were you keeping Danny informed of what was going on with
16 your mom?

17 A. Daily almost. I tried to.

18 MR. NURIK: May I have one moment, your Honor?

19 (Pause.)

20 Q. One final thing. When you testified earlier that your
21 brother Bob had pled guilty initially sometime after the raid
22 in Massachusetts, were you aware that he pled guilty to tax
23 charges?

24 A. Yes.

25 Q. So originally he was charged with illegal gambling?

1 MR. WYSHAK: I object to this.

2 MR. NURIK: If she knows.

3 THE COURT: Well, I --

4 MR. WYSHAK: Misleading cross-examination, and there's
5 no basis she knows about plea negotiations.

6 THE COURT: I need the question. What's the question?

7 Q. Was he originally charged --

8 THE COURT: No. I'll allow as to what her
9 understanding was.

10 Q. Your understanding, was he originally charged with
11 gambling charges?

12 THE COURT: Do you know?

13 A. Originally, yes.

14 Q. And do you know that ultimately he was allowed to plead
15 guilty to tax evasion?

16 A. Yes.

17 Q. Okay. And you know that ultimately he paid his tax on
18 that?

19 A. Yes.

20 Q. And ultimately paid his restitution on that?

21 A. Yes.

22 MR. NURIK: Your Honor, I would finally offer that
23 last exhibit, the order, into evidence, acknowledging your
24 instructions.

25 THE COURT: All right, I allow it in. But let me just

1 say this: You're about to see a document that comes from this
2 court having to do with Mr. Eremian's probation, and it speaks
3 for itself, but the bottom line is that he was permitted to go
4 to Antigua to work during the course of his probation.

5 However, there is no evidence that this court or the Probation
6 Office was ever told the nature of what the business was in
7 Antigua or what was happening in Massachusetts. So this will
8 establish timing of certain activities that are relevant to
9 this case, but it should in no way be viewed as the court
10 permitting anything that happened in this case.

11 (Defendant Exhibit X received in evidence.)

12 Q. With respect to this document which you said you saw back
13 when it was generated in 2002, correct --

14 A. Yes, yes.

15 Q. -- in particular, I'd like you to focus on the fact that
16 "Assistant United States Attorney Jeffrey Auerhahn is aware of
17 Mr. Eremian's employment at Sports Off Shore and has no
18 objection to his traveling to Antigua for work purposes."

19 A. Yes.

20 Q. You saw that back then, correct?

21 A. I did.

22 Q. Okay. Now, as a result of reading this document, did that
23 make you feel more comfortable about being involved with the
24 account?

25 A. Yes.

1 Q. Okay. And is it fair to say that Bob Eremian was, from
2 what you saw, providing this information to others?

3 A. Yes.

4 MR. NURIK: Okay, I have no further questions. Thank
5 you.

6 CROSS-EXAMINATION BY MR. HORSTMANN:

7 Q. Good afternoon, Mrs. Tierney. My name is Pete Horstmann,
8 and I represent Todd Lyons. We've never met before, have we?

9 A. No, we have not.

10 Q. Prior to the time that you appeared here in Federal Court
11 for purposes of entering a plea in front of Judge Young, you
12 signed a plea agreement with the U.S. Attorney's office,
13 correct?

14 A. Yes.

15 Q. Okay. And you reviewed that plea agreement before you
16 signed it, right?

17 A. Yes.

18 Q. Okay. And you reviewed it with your attorney, correct?

19 A. Correct.

20 MR. HORSTMANN: May I approach the witness, your
21 Honor?

22 THE COURT: You may.

23 Q. Mrs. Tierney, showing you what's marked for identification
24 as Exhibit 318, I'd ask if you recognize that document?

25 A. Yes.

1 Q. And directing your attention to the second-to-last page,
2 is that your signature on the second-to-last page?

3 A. Yes.

4 Q. Okay. And is that your attorney's signature?

5 A. Yes.

6 Q. And is it signed by the United States Attorney's office
7 for the District of Massachusetts?

8 A. Yes.

9 Q. Okay. And is that the plea agreement that you entered
10 into before agreeing to plead guilty in front of Judge Young?

11 A. Yes.

12 MR. HORSTMANN: I'd offer that as Exhibit 318.

13 MR. WYSHAK: May I see it?

14 (Document shown to Mr. Wyshak.)

15 THE COURT: Well, maybe it would make it subject to
16 any sanitization. Is that what you're saying?

17 MR. WYSHAK: Well, it makes reference to the
18 information which is attached as part of this document, which
19 is not attached, so I would just ask that the information be
20 attached, and then I have no objection.

21 MR. HORSTMANN: The information needs to be redacted
22 in one area, but other than that, I have no objection to that.

23 THE COURT: All right, fine. We'll work on it.

24 (Defendant Exhibit 318 received in evidence.)

25 Q. Mrs. Tierney, you were shown an exhibit on direct

1 examination that related to -- it was a check that was made
2 payable to you by Mr. Kenneth Lindsay, correct?

3 A. Correct.

4 Q. And those were the proceeds from the sale of a timeshare,
5 correct?

6 A. Correct.

7 Q. All right. And what wasn't shown to you, I believe, is
8 the deposit slip that accompanied that. Do you remember the
9 amount of that check?

10 A. Yes.

11 Q. All right. And is that the deposit slip that shows that
12 check going into the account that you managed for Mr. Eremian?

13 A. Yes.

14 Q. All right, you didn't deposit that into your own account,
15 did you?

16 A. No.

17 Q. And that went in on September 17, correct?

18 A. Yes.

19 MR. HORSTMANN: I would offer this as the next
20 exhibit, if it's not in already as part of the government's
21 exhibit.

22 THE CLERK: I don't know if it's in.

23 MR. WYSHAK: No objection.

24 THE CLERK: 319.

25 MR. HORSTMANN: Thank you.

1 (Defendant Exhibit 319 received in evidence.)

2 Q. Now, with respect to the plea agreement that you entered
3 into with the United States Attorney's office, you were not
4 charged with any racketeering offenses, correct?

5 A. No.

6 MR. WYSHAK: Objection.

7 THE COURT: Overruled.

8 Q. You were not charged with any money laundering offenses,
9 correct?

10 A. No.

11 Q. And you were not charged with any violations of the
12 Unlawful Internet Gambling Enforcement Act, correct?

13 A. No.

14 Q. And during this period of time that you were assisting
15 Robert Eremian and the family, you testified that Robert
16 Eremian paid over \$3 million in taxes to the federal
17 government, correct?

18 A. Correct.

19 MR. HORSTMANN: No further questions, your Honor.

20 REDIRECT EXAMINATION BY MR. WYSHAK:

21 Q. Ms. Eremian -- sorry. Ms. Tierney, do you remember when I
22 asked you on direct examination about the glass and the people
23 sitting behind the glass on computers?

24 A. Yes, I do.

25 Q. You denied that, right?

1 A. I denied knowing that the glass was there.

2 Q. Well, okay. You were just shown a photo, at least two
3 photos. Showing you this one here which you said you
4 recognized --

5 A. Uh-huh.

6 Q. -- okay, that's glass, is it not?

7 A. Correct.

8 Q. Okay. And here's a closer one again showing by the dining
9 table, correct, the glass?

10 A. Correct.

11 Q. Correct? And isn't what's depicted in both of those
12 photos the same thing that's depicted in Defendants'
13 Exhibit 317-A, that this is a close-up of those glass doors?

14 (Witness examining photograph.)

15 A. It appears to be.

16 MR. WYSHAK: I offer it, your Honor.

17 THE COURT: All right.

18 (Defendant Exhibit 317-A received in evidence.)

19 Q. All right, so, now, showing you this photo which is
20 Defendants' 317-A, that's what you see if you look through that
21 glass, right?

22 A. That's what I see, yes.

23 Q. And that's what you did see when you were there, correct?

24 A. I saw computers and telephones.

25 Q. Okay. So that's the glass -- pardon me if I described it

1 as a wall previously, but they're sliding doors, correct?

2 A. I don't remember if they slide.

3 Q. Okay.

4 A. It looks like a slider.

5 Q. Whether they slide or not, they appear to be glass visible
6 from the dining area through which you can see people on
7 computers. It appears to be an office area, correct?

8 A. Correct.

9 Q. And that was visible to you when you dined, as is apparent
10 from this photo, at SOS?

11 THE COURT: That's a question.

12 THE WITNESS: Oh, I'm sorry. I didn't --

13 THE COURT: Is that a question?

14 MR. WYSHAK: Yes.

15 A. Your question was?

16 Q. It's visible to you when you dine from the dining room,
17 right?

18 A. Yes.

19 Q. And just so the record is clear, you were there in 1999,
20 correct?

21 A. I don't remember the date, but --

22 Q. Okay. Well, I'll show you this document and see if this
23 refreshes your recollection.

24 A. Okay.

25 Q. You can tell us the years that you visited Antigua.

1 (Witness examining document.)

2 A. For the 2008 where there are two, that must have been me
3 and my mom, correct?

4 Q. I don't know, Ms. Tierney. You would know better than I.

5 A. Okay. Well --

6 Q. So you were there in 2008?

7 A. 2008. I don't have my passport. I would have to check my
8 passport.

9 Q. Okay, well, that's a Customs printout of your travel.

10 A. Okay.

11 Q. You can see that, correct?

12 A. Yes.

13 Q. Okay, so does that refresh your recollection as to the
14 years that you went to Antigua?

15 A. Yes.

16 Q. Okay, so what years were they?

17 A. 1999, 2000, 2008, 2009.

18 Q. Okay. And do you remember on which of those trips your
19 husband was present with you?

20 A. In 1999.

21 Q. Okay. And the other one?

22 A. Probably 2008.

23 Q. I want to show you this document and ask you if it
24 refreshes your recollection.

25 (Witness examining document.)

1 A. Okay.

2 Q. Does it?

3 A. Yes, so I was off a year. It was 2009, not 2008.

4 Q. All right, so he was there --

5 A. Twice.

6 Q. -- twice, once in '99 and the second time in 2009,
7 correct?

8 A. Correct.

9 Q. And I assume on both occasions you and he dined in that
10 dining area?

11 A. Yes.

12 Q. All right, now, you were asked questions about your plea
13 agreement with the government by Mr. Horstmann, correct?

14 A. Yes.

15 Q. And that plea agreement was a result of negotiation
16 between your lawyer and the United States Attorney's office,
17 correct?

18 A. Correct.

19 Q. To achieve a result that everybody thought was fair?

20 A. Correct.

21 Q. Correct? You understood that you could have been charged
22 with more serious charges, did you not?

23 MR. HORSTMANN: Objection.

24 THE COURT: Overruled.

25 A. Correct.

1 Q. Okay, but the United States didn't do that and resolved
2 the case by way of a tax plea; fair to say?

3 A. Correct.

4 Q. All right, now, this letter from Probation, Defendants'
5 Exhibit 315, it's your testimony that your brother actually
6 showed you this document?

7 A. Yes.

8 Q. And I believe that Mr. Nurik asked you if that alleviated
9 some of your apprehension. Were you apprehensive about -- do
10 you recall him asking you that?

11 A. Yeah. I didn't recall him saying "apprehension." It made
12 me feel like I felt I could do the work for him.

13 Q. Well, did you have some concerns prior to that that you
14 shouldn't be involved in what he was involved in?

15 A. Yeah, yes.

16 Q. And then he showed you this document, correct?

17 A. Yes.

18 Q. And you have no idea what he told Judge Tauro about what
19 he was doing in Antigua, do you?

20 A. No, except for what I read here.

21 Q. Well, were you present at any court --

22 A. No.

23 Q. -- sessions?

24 A. No.

25 Q. No? Do you know what his lawyer, Mr. Merberg, told

1 Judge Tauro?

2 A. No.

3 Q. Do you know what Mr. Merberg represented to Pam Lombardini
4 from the Department of Probation?

5 A. No.

6 Q. Or what Mr. Eremian, your brother Robert Eremian,
7 represented to the Department of Probation?

8 A. No.

9 Q. No. So, so far as you know, he told them that he was some
10 kind of computer consultant, correct?

11 A. Correct.

12 Q. Which is what he told you?

13 A. Correct.

14 Q. Right. So you would agree, if in fact he was the owner
15 and operator of an illegal gambling business, that he would
16 have lied to the court?

17 A. Yes.

18 Q. Okay. As he lied to you, correct?

19 A. According to this document, he lied to the court, I guess.

20 Q. Okay. So the fact that he was allowed to go back to
21 Antigua was because he lied?

22 MR. NURIK: Objection.

23 THE COURT: Overruled.

24 Q. Correct?

25 A. I can't say that he lied. I wasn't there. I wasn't

1 present.

2 Q. Okay. But if he did, this would not be something that the
3 court or the Department of Probation or the U.S. Attorney's
4 office could rely upon if they were lied to, correct?

5 A. Correct.

6 MR. NURIK: Objection, calls for speculation.

7 THE COURT: Yes, sustained, sustained.

8 Q. Did you have a conversation with your brother about this
9 document?

10 A. Yes, when he had the document.

11 Q. Okay. Did he tell you that he employed people in
12 Massachusetts --

13 A. No.

14 Q. -- who solicited customers for his business in SOS?

15 A. No.

16 Q. Did he tell you that they collected money from gamblers
17 here in Massachusetts?

18 A. No.

19 Q. Did he tell you that those people who collected that money
20 packed it in FedEx boxes and shipped it overseas to Antigua?

21 A. No.

22 Q. He didn't tell you any of that, right?

23 A. No.

24 Q. And if those were in fact the facts, he lied to you?

25 MR. NURIK: Objection.

1 THE COURT: Overruled.

2 Q. Correct?

3 A. Yes.

4 Q. All right, now, the amount of money that was drawn out of
5 that Bank of America 0933 account by you --

6 A. Yes.

7 Q. -- you were asked on cross-examination whether or not some
8 of that money was to reimburse you for expenses; is that fair
9 to say?

10 A. Yes.

11 Q. All right. Now, clearly you had access to the money in
12 the 0933 account, correct?

13 A. Yes.

14 Q. You had access to money in the nanny account, for a better
15 term, the account that you were using to pay the expenses for
16 the children?

17 A. Correct.

18 Q. And the household in Lynnfield, correct?

19 A. Correct.

20 Q. You had access to an account that was paying some of your
21 mother's expenses, correct?

22 A. Correct.

23 Q. And all those three accounts were funded by your brother
24 Bob Eremian?

25 A. Correct.

1 Q. Correct? So you have access to three accounts that have
2 tons of money in them, correct?

3 A. The three accounts did not have tons of money in them. I
4 would draw from his account for what the family and what the
5 other account needed.

6 Q. You would fund the other two accounts from the 0933
7 account?

8 A. Yes. I would do an internal transfer.

9 Q. Okay. But you kept all those accounts funded?

10 A. Minimally, yes.

11 Q. Minimally?

12 A. Yes.

13 Q. Not sufficient to pay the required expenses for the
14 children or for your mother?

15 A. They were varied. I tried to keep it right to the penny,
16 but there were odd expenses.

17 Q. Odd expenses here and there?

18 A. Yes.

19 Q. Not significant amounts of money, correct?

20 A. No.

21 Q. Okay. So to the extent that you may have been reimbursed,
22 it was for small change?

23 A. A couple thousand dollars.

24 Q. And the reason that you had this obligation to care for
25 Robert Eremian's children, his family, he had a sick wife?

1 A. Yes.

2 Q. And he had children with problems?

3 A. Yes.

4 Q. Correct? And he left them; isn't that fair to say?

5 A. He tried -- I don't think that's fair to say that he left
6 them.

7 Q. He chose not to be with them?

8 A. He chose --

9 Q. He chose not to be a parent?

10 A. He chose to first take care of his wife so that she could
11 be better to take care of the children; and the children, they
12 would also have their own problems to deal with. I didn't -- I
13 don't --

14 Q. For the period from 1996 to today, he's been in Antigua,
15 correct?

16 A. Not solely, but, yes.

17 Q. Pretty much, right?

18 A. Back and forth.

19 Q. Pretty much. He decided to live and stay in Antigua,
20 correct?

21 A. He came back to live in Massachusetts when the children
22 were in the Massachusetts home for weeks at a time.

23 Q. For a few weeks?

24 A. Weeks at a time.

25 Q. Okay, all right. It's not the same as being a full-time

1 hands-on parent, is it?

2 MR. NURIK: Objection, your Honor.

3 THE COURT: Sustained.

4 Q. Okay. And just so the record is clear, you were asked on
5 cross-examination about this helicopter business and this heavy
6 machinery business, correct?

7 A. Yes.

8 Q. It's not your claim, is it, that the money that went into
9 the 0933 account came from those businesses?

10 A. No.

11 Q. No, okay. So the record is clear, the money that went
12 into the 0933 account, which you characterize as commissions --

13 A. Correct.

14 Q. -- came from SOS, correct?

15 A. SOS commissions for consulting, yes.

16 Q. Now, when I asked you questions about some of the details
17 involving account activity, such as selling Red Sox tickets to
18 people and, you know, sometimes getting paid and sometimes not
19 getting paid, you seemed somewhat oblivious. Do you recall
20 that?

21 MR. NURIK: Objection.

22 THE COURT: Sustained.

23 Q. Well, you weren't able to recall with any accuracy?

24 MR. NURIK: Objection, leading.

25 THE COURT: Well, not because it's leading, but I'll

1 overrule that one. Could you remember them one way or another?

2 A. Could you repeat the question?

3 MR. NURIK: Argumentative, your Honor.

4 Q. When I asked you questions on direct about the details of
5 some of these transactions involving the Red Sox tickets,
6 correct --

7 A. Yes.

8 Q. -- you seemed unable to provide any specific information.

9 MR. NURIK: Objection, leading and argumentative.

10 THE COURT: Overruled.

11 Q. Do you agree with that, that you were not very clear about
12 the nature of those transactions?

13 A. I was not clear about large packets of tickets, how they
14 were paid for. I told you that there were some that were paid
15 for, and I would put that money in the bank. I didn't --

16 Q. Some that were paid for and some that weren't?

17 A. They were -- I don't know how they were paid for.

18 Q. I agree, that's what you said, and I'm just asking you
19 because on redirect you seemed to respond to Mr. Nurik's
20 questions --

21 MR. NURIK: Objection.

22 THE COURT: Excuse me. You mean on cross?

23 MR. WYSHAK: I'm sorry.

24 Q. -- on cross-examination you seemed to respond to
25 Mr. Nurik's questions that you were very concerned that all the

1 expenses coming out of the 0933 account were accurately
2 reflected, and it was your concern that you knew exactly what
3 was going on. So which is it?

4 A. I knew what the deposits and the payments were.

5 Q. Well, if you send tickets to somebody --

6 A. Yes.

7 Q. -- and you didn't get paid for it, right --

8 A. Yes.

9 Q. -- you must have had at some point a question, "Where's
10 the money?"

11 A. They had prior arrangements to pay my brother for his
12 tickets.

13 Q. Okay. The same thing with the paying for the expenses of
14 the timeshare, right? You were sent a bill. Sometimes you
15 didn't have to pay the bill, right?

16 A. No. I paid the bill when I was sent the bill. There
17 might have been a time --

18 Q. Is it your testimony that every time --

19 THE COURT: No, no, don't interrupt. There may have
20 been a time. . .

21 A. There may have been a time when there was an extra bill
22 for an extra charge, but it was not a -- I'm not -- I'm saying
23 that the bookkeeping might have been lax on their end, but I
24 paid what came for his particular six-week unit.

25 Q. Do you recall that sometimes you didn't get billed or

1 sometimes you didn't have to pay because Mr. Perry owed your
2 brother money?

3 A. I do not recall that.

4 Q. You don't recall that.

5 A. I did not know he was owing my brother money.

6 Q. So it's your testimony, if we look in this 0933 account,
7 by the way --

8 A. Yes.

9 Q. -- and we compare them with Mr. Perry's billings to you,
10 there will be a check there for every single bill that
11 Mr. Perry sent to you?

12 A. That he sent to me, yes.

13 Q. Okay. Now, you also testified that your brother Bob told
14 you that SOS was licensed and legal. Do you recall Mr. Nurik
15 asking you about that?

16 A. I don't recall him asking, but I -- I do recall the
17 question.

18 Q. Well, I asked you on my direct examination if you ever had
19 a conversation with your brother about the legality of SOS.

20 A. In Antigua.

21 Q. Yes.

22 A. Yes.

23 Q. Well, you told me "no" before. Now it's "yes," you did
24 have a conversation with him about the legality --

25 A. Oh, no, I'm sorry, I misunderstood your question. I

1 didn't have a conversation with my brother.

2 Q. I thought you told Mr. Nurik on cross that you had a
3 conversation with him about SOS, and he told you it was
4 licensed and legal.

5 A. I don't recall that question. I'm sorry.

6 Q. All right. And, again, you paid your brother's taxes out
7 of this 0933 account?

8 A. Yes.

9 Q. And they were substantial, correct?

10 A. Correct.

11 Q. But you have no idea regarding the true amount of his
12 income, correct?

13 A. Correct.

14 Q. As a matter of fact, what you were reporting to
15 Mr. Flowers as his income was based upon all the money
16 deposited into the various accounts that you managed for him?

17 A. Correct.

18 Q. That you described as commission?

19 A. Correct.

20 Q. So it didn't account for any money that he may have kept
21 in Antigua, correct?

22 A. I never saw the tax that was filed.

23 Q. Okay. Well, I think you said on direct, part of what you
24 were willfully blind about was the amount of money he was
25 earning, correct?

1 A. What I observed, yes.

2 Q. So the taxes that he paid, you don't know if those were
3 accurate or not, correct?

4 A. I took it from the accountant as to what he owed.

5 Q. And, as a matter of fact, some of that money that was
6 being paid over the years was being paid because when he pled
7 guilty, he owed a lot of money in interest and penalties, about
8 \$300,000 over and above the tax liability. Were you aware of
9 that?

10 A. I was aware he owed past taxes.

11 MR. WYSHAK: Nothing further, your Honor.

12 RECROSS-EXAMINATION BY MR. NURIK:

13 Q. With respect to the taxes, you actually reported to
14 Mr. Flowers how much money was received in that account that
15 you've been talking about, correct?

16 A. Correct.

17 Q. You have no idea what additional information Mr. Flowers
18 got regarding other earnings in determining what the tax amount
19 should be, correct?

20 A. Correct.

21 Q. And in fact what happened is, Mr. Flowers would then tell
22 you how much you need to pay out of the account for the taxes,
23 correct?

24 A. Correct.

25 Q. And we do know that it's well over \$3 million that you

1 paid over that period of time?

2 A. Correct.

3 Q. And you told Mr. Wyshak that there may have been
4 approximately \$300,000 owed from earlier years?

5 A. I don't remember the figure, but I knew there were past
6 taxes and penalties.

7 Q. But it wasn't the bulk of what you paid. It was just a
8 small amount, correct?

9 A. Well, Mr. Flowers, again, would give me an amount with a
10 payment stub to pay it off. It wasn't paid off all at once.

11 Q. Right. Now, with respect to the order that you saw,
12 Mr. Wyshak asked you questions about whether or not your
13 brother Robert lied to you. You have no idea, do you, what the
14 United States Attorney's office knew at the time about Sports
15 Off Shore and its activities, correct?

16 A. Correct.

17 Q. You have no idea what they knew about Sports Off Shore's
18 activities here in the United States at the time, correct?

19 A. Correct.

20 Q. But you do see, you were aware that it was represented to
21 you that the United States Attorney's office had no objection
22 to your brother's travel?

23 A. Correct.

24 Q. And working at Sports Off Shore, correct?

25 A. Correct.

1 Q. The actual company's name is mentioned, correct?

2 A. Correct.

3 Q. Okay. You didn't ask your brother at the time about the
4 details concerning how payments were being made by the betters,
5 did you?

6 A. No.

7 Q. So when Mr. Wyshak asked you whether or not your brother
8 lied to you about the activities in the United States, it was
9 never even brought up?

10 A. Correct.

11 Q. So in fact what you did know is that it was a sports book
12 operating in Antigua, correct?

13 A. Correct.

14 Q. Okay. Now, just so we are clear here, did you know at the
15 time that it was licensed?

16 A. Yes.

17 Q. Okay. And how did you know that?

18 A. My brother told me it was licensed and legal.

19 Q. Okay. All right, so that we're clear, he did in fact tell
20 you that?

21 A. Uh-huh.

22 Q. Okay.

23 MR. NURIK: May I have the photographs. One moment,
24 your Honor.

25 I have nothing further. Thank you.

1 MR. HORSTMANN: Very briefly.

2 RECROSS-EXAMINATION BY MR. HORSTMANN:

3 Q. Mrs. Tierney, one of your nieces lives down in Antigua,
4 correct?

5 A. Yes.

6 Q. Which is one of Bob's children?

7 A. Yes.

8 Q. And she's been down there for fifteen years, right?

9 A. Pretty much.

10 MR. HORSTMANN: No further questions.

11 MR. NURIK: Your Honor, I did have one thing. I
12 apologize, I forgot.

13 FURTHER RECROSS-EXAMINATION BY MR. NURIK:

14 Q. Bob's wife at the time was in rehab in Antigua when he was
15 in Antigua, correct?

16 A. She was in Antigua rehab, Florida rehab, then back in
17 Antigua rehab.

18 Q. In fact, Bob had moved his family?

19 A. Yes.

20 MR. NURIK: Thank you.

21 THE COURT: Thank you. Good-bye.

22 THE WITNESS: I'm done?

23 THE COURT: You're done.

24 THE WITNESS: Thank you.

25 (Witness excused.)

1 MR. FISHER: The government calls John Olsen.

2 THE COURT: I'm going to stand and stretch, so you
3 might as well too.

4 How long do you think you have on direct?

5 MR. FISHER: Direct, I may not be done by lunch on
6 direct. I'm hoping to, but I may not be.

7 THE COURT: I'd like to finish the direct by lunch.
8 Then we'll take lunch and cross afterwards, if we can.

9 JOHN OLSEN

10 having been first duly sworn, was examined and testified as
11 follows:

12 THE CLERK: Could you please state and spell your name
13 for the record.

14 THE WITNESS: John Olsen, O-l-s-e-n.

15 MR. FISHER: May I proceed, your Honor?

16 DIRECT EXAMINATION BY MR. FISHER:

17 Q. Good afternoon, Mr. Olsen. How old are you?

18 A. Fifty-one.

19 Q. And where do you currently reside?

20 A. Boca Raton, Florida.

21 Q. What do you do for a living?

22 A. I'm a fitness trainer and consultant.

23 Q. And how long have you been doing that?

24 A. 1989, '90.

25 Q. And where are you originally from?

1 A. I grew up in Canton, Massachusetts.

2 Q. Did you at one time own a gym on the Cape?

3 A. Yes, I did.

4 Q. And tell the jurors about that.

5 A. It was in Hyannis, Mass., called Galaxy Fitness Center.

6 Q. And you sold that before you moved down to Florida,
7 correct?

8 A. Yes, sir.

9 Q. Can you tell the jurors how you originally got involved
10 with gambling.

11 A. Uhm, back in college, probably gambling on sports with
12 friends in college is how it probably originated.

13 Q. And then when you owned your gym, or even prior to that,
14 were you involved in any 900 number type businesses?

15 A. Yes.

16 Q. And describe that to the jury, your involvement and what
17 that is.

18 A. We had a telecommunications company, I did, where we gave
19 advice to gamblers. We analyzed games for each and every day,
20 and gamblers would call a 900 number and listen to our advice
21 on whatever games that we had put up that particular day.

22 Q. When is it that you got involved with that, that type of
23 business?

24 A. Where was that?

25 Q. When, when was that?

1 A. That was probably 1991, '90 or '91.

2 Q. And how is it that you got involved in that type of
3 business?

4 A. Uhm, I used to call them and get advice, and I figured, I
5 came up with some other ideas on how it might work better, and
6 that's how it started.

7 Q. And you used to call them when you were a better yourself,
8 correct?

9 A. Yes.

10 Q. Now, when you were a better yourself then around that
11 time, how were you placing your bets?

12 A. I would call somebody up and tell them what I wanted and
13 place them.

14 Q. And was that typically local bookmakers?

15 A. Yes, exactly.

16 Q. At some point in time, do you meet an individual named
17 Robert Eremian or Bob Eremian?

18 A. Yes, I did.

19 Q. And tell the jurors when that was.

20 A. Uhm, I'm guessing around 1993.

21 Q. And what came about that you were introduced to
22 Mr. Eremian?

23 A. A mutual friend was going to be up in, I guess it was the
24 Lynn area for a conference of some kind that I was at for a
25 day. It was like a seminar or something. And Bob was playing

1 golf there, and we arranged to meet, and that's how it all
2 started.

3 Q. And that was a planned meeting for your friend, correct?

4 A. Yes.

5 Q. And that was because you were involved in this 900 number
6 business?

7 A. Right, right, and I was doing a little gambling, and I met
8 Bob.

9 Q. And at the time, what were you introduced to Bob as? Did
10 you know what his living was?

11 A. That he was a bookmaker.

12 Q. And how did you learn that?

13 A. Everyone knew it. My friend said that "You've got to meet
14 this guy I know. He's a big bookmaker on the North Shore."

15 Q. And after that point in time when you were introduced to
16 Mr. Eremian, did you begin to bet with him?

17 A. Yes.

18 Q. At some point do you become an agent for him?

19 A. Correct.

20 Q. And describe that for the jurors, how that began.

21 A. I started gambling myself calling in on the number, and
22 Monday Bob would call me and tell me what the figure was. But
23 what would eventually happen, every week I'd have friends that
24 would say, "Put this in for me, put that in for me," and it got
25 confusing. And Bob said, "Just give them their own numbers,

1 and then you can collect from them, and we'll give you a
2 percentage of the net losses."

3 Q. And do you remember what your commission was on the net
4 losses at that point in time?

5 A. It started off at either 15 or 20 percent.

6 Q. And what year was that that you started to become an
7 agent?

8 A. Right after I met him. Probably '91, if that was the time
9 that I met Bob.

10 Q. So sometime in the early '90s, correct?

11 A. Correct.

12 Q. And the number that you would call and you would have your
13 betters call, was that an 800 number?

14 A. At that time, I think it was just a 617 number.

15 Q. And do you continue to act as a better and/or an agent
16 with Mr. Bob Eremian up until 1995?

17 A. Did I?

18 Q. Yes.

19 A. Yes, I did.

20 Q. And what, if anything -- well, were you aware that his
21 office in Lynnfield was raided in 1995?

22 A. Yes, I was.

23 Q. And tell the jurors how you learned about that.

24 A. Uhm, I think Bob called me. I got calls from some of the
25 people that were playing with me, and they said that nobody was

1 answering the phones. And I called, and the same thing
2 happened. And a short time after that, I think Bob called me
3 to say that they were going to be closed down for a day or two,
4 and that they had been raided, and they would be back open in a
5 few days.

6 Q. And in fact was the business opened or reopened in a few
7 days?

8 A. Yes, it was.

9 Q. And did you continue to act as a better and an agent?

10 A. Yes.

11 Q. At some point in time, were you made aware through Bob
12 Eremian that the business was going to be moved to Antigua?

13 A. Yes, I was.

14 Q. And do you remember when that was in relation to the raid?

15 A. Uhm, I'm thinking that it was within six months after.

16 Q. Now, during this entire time frame, you're still on the
17 Cape, correct?

18 A. Yes.

19 Q. For the years that you were betting and acting as an agent
20 with Bob Eremian, how were you settling up?

21 A. When the figure got to a certain number, we would -- we
22 would meet. I would meet somebody. You know, we'd pick a
23 spot. Because I was on the Cape and they were in Boston, it
24 might be halfway, and we would pick a spot at someplace and
25 meet.

1 Q. And who is it that you were meeting?

2 A. Back then I met mainly Bob's father, I believe.

3 Q. And did you know him as Big Bob?

4 A. Just as Bob's father. I never heard him as Big Bob.

5 Q. And what would you do? Would you pay him cash or check?

6 A. Cash always.

7 Q. And the cash that you would pay, was that the cash you
8 collected from your betters?

9 A. Yes.

10 Q. And, of course, at that point in time you were taking out
11 your commission, correct?

12 A. Yes.

13 Q. At any time prior to the 1995 raid, were you paying Bob
14 Eremian himself?

15 A. I met Bobby a few times, yeah, for sure.

16 Q. And, again, do you remember where you were meeting them in
17 terms of where these exchanges took place?

18 A. Uhm, I can remember meeting Bob in Quincy one time,
19 another time at a restaurant in the North End.

20 Q. Were you meeting in parking lots for the most part?

21 A. Uhm, pretty much so, yeah.

22 Q. And exchanging cash, correct?

23 A. Correct.

24 Q. And were they exchanging cash to you if your betters won
25 large amounts?

1 A. They would give me money or I would give them money.

2 Q. But for the most part, money was going from you to them,
3 correct?

4 A. Yes.

5 Q. Now, you stated shortly after the 1995 Lynnfield raid, you
6 learned the business was being moved to Antigua, correct?

7 A. Yes.

8 Q. How did that affect your role with Bob Eremian?

9 A. Really, there was no real difference. It was business as
10 usual.

11 Q. And in fact you kept your own betters, correct?

12 A. Yes.

13 Q. And you expanded your better base, correct?

14 A. Possibly. You know, it depends on the year. Sometimes it
15 might be more or less.

16 Q. Does your commission go up once the business moves to
17 Antigua?

18 A. Over the years it went up from either 15 or 20 when I
19 started till -- it went up all the time.

20 Q. And what did it end up at, if you remember?

21 A. Fifty.

22 Q. Fifty percent? So you eventually become a 50 percent
23 agent, correct?

24 A. Yes.

25 Q. Now, getting back to the move to Antigua, did Bob Eremian

1 invite you to Antigua?

2 A. No.

3 Q. He didn't ask you to go help set up the business down
4 there?

5 A. No.

6 Q. But you understood the office was being moved to Antigua,
7 correct?

8 A. Yes, I did.

9 Q. Once Bob was at the office in Antigua, who were you
10 settling up with at that point?

11 A. Uhm, towards the end of the '90s, it was Todd Lyons.

12 Q. And were you settling up with him as you had settled up
13 with Bob or Bob's father?

14 A. Yes.

15 Q. Do you see Mr. Todd Lyons in the courtroom today?

16 A. I think that's him right there.

17 MR. FISHER: Your Honor, may the record reflect he
18 identified the defendant Todd Lyons?

19 THE COURT: It will.

20 Q. And your memory is that that was the late '90s that you
21 started to settle up with Todd Lyons?

22 A. I believe so, yeah.

23 Q. And where would you meet Mr. Lyons for these settle-ups?

24 A. He'd come to my house, or we'd meet at a parking lot, or
25 we'd find a place to meet.

1 Q. And, again, was this similar, you know, cash exchanges?

2 A. Correct.

3 Q. Did you ever pay Mr. Lyons in check?

4 A. No.

5 Q. Did your betters ever pay you in check?

6 A. Sometimes.

7 Q. And what would you do if you received a check from a
8 better?

9 A. Uhm, cash it and pay the office what I owed them.

10 Q. And you would settle up with the office in cash, correct?

11 A. Yes.

12 Q. Did you prefer cash over check?

13 A. Uhm, of course.

14 Q. Why is that?

15 A. No record.

16 Q. How long are you settling up with Todd Lyons while you're
17 still in Massachusetts?

18 A. I'm guessing it was just a couple of years, and then I
19 moved to Florida.

20 Q. When is it that you moved to Florida?

21 A. August of 2001.

22 Q. And what precipitated your move to Florida?

23 A. Just a change. I was married. I had two young kids. We
24 were looking for a change. It had nothing to do with, uhm,
25 with this business at all.

1 Q. You sold your gym, correct?

2 A. Yeah.

3 Q. What happened to the betters that you left behind in
4 Massachusetts once you moved to Florida?

5 A. Well, since most of them were friends of mine, I had
6 another friend that kind of took over for me picking up and
7 collecting and giving money off to them.

8 Q. Who was that friend?

9 A. Tom Driscoll.

10 Q. And Tom in effect you made a subagent to you, correct?

11 A. Yes, I did.

12 Q. Now, at the time you moved to Florida, did you already
13 have subagents, or did you run --

14 A. Yes.

15 Q. You did?

16 A. Yes.

17 Q. So when you were still living on the Cape, you had
18 subagents, correct?

19 A. Yes.

20 Q. Who were your subagents?

21 A. Tom, Jay Murphy, and Chuck Collura.

22 Q. And you had your own betters yourself, correct?

23 A. Yes.

24 Q. What were you paying your subagents?

25 A. 20 or 25 percent.

1 Q. And were you taking that out of your commission?

2 A. Yes.

3 Q. So were you a 50 percent agent by that point?

4 A. No, I was not.

5 Q. What was your commission at that point?

6 A. I'm guessing 30.

7 Q. So once you depart in 2001 to Florida, then Tom Driscoll
8 takes over your role collecting from the other subagents and
9 your betters?

10 A. Yes.

11 Q. How was Mr. Driscoll settling up with the office?

12 A. He would meet Todd.

13 Q. And was that per your instruction?

14 A. Yeah.

15 Q. Now, did you handle any of your betters that were here in
16 Massachusetts once you relocated to Florida?

17 A. No, I don't think so.

18 Q. Were you still getting a commission once you went to
19 Florida?

20 A. Yes.

21 Q. But that was really just for having subagents, correct?
22 You weren't doing any collection at that point?

23 A. Not from them, or, you know, if I saw them, maybe they
24 would -- if I came up for a vacation or something and there was
25 money that was owed. It was pretty lax. There was no, like,

1 "You've got to be there at Monday 9:00 a.m. to pay."

2 Q. What I'm trying to understand is, once you're in Florida,
3 how do you collect your commissions at that point in 2001?

4 A. Uhm, I -- I was -- I had some -- a few gamblers down in
5 Florida as well, and oftentimes the money that I would collect
6 from them would be my commissions coming from Massachusetts.

7 Q. So you would just stick that right in your pocket, and the
8 balance for that would be made up with whatever Driscoll gave
9 to Mr. Lyons?

10 A. Right.

11 Q. How is it you established betters once you were in
12 Florida?

13 A. Uhm, you meet people from either the gym or being out and
14 about. You know, you meet friends. You're at sports bars, and
15 one thing leads to another, and you're talking gambling.

16 Q. Now, when you moved to Florida in 2001, what town did you
17 move to down there?

18 A. Boca Raton.

19 Q. Did you meet an individual named Dan Eremian?

20 A. Yes, I did.

21 Q. And describe to the jurors how it came about you met him.

22 A. Prior to my move, Richard Sullivan, who managed the
23 business, the SOS, told me that Dan owned and operated a
24 restaurant, that I had to go by and introduce myself.

25 Q. And in fact you went to that bar?

1 A. Yes.

2 Q. And you met Dan Eremian?

3 A. (The witness nodded affirmatively.)

4 Q. Do you see Mr. Eremian in the courtroom today?

5 A. Yes, right there.

6 MR. FISHER: Your Honor, may the record reflect he
7 identified the defendant Dan Eremian?

8 THE COURT: Yes.

9 Q. And do you remember when that was you met Dan Eremian?

10 A. Probably right after I moved there. I know I went to
11 dinner there with my kids.

12 Q. And then from that point on, late 2001, mid-2001, you've
13 known Dan Eremian ever since, correct?

14 A. Yes.

15 Q. During the time you knew Dan Eremian, did you learn him to
16 be an agent for SOS?

17 A. Yes.

18 Q. Did you inform him that you were an agent for SOS?

19 A. Yes. He probably knew as well, but, yeah, I did.

20 Q. Now, for the betters that you acquired in Florida, when
21 they lost money, how were they settling up with you?

22 A. I would meet them, and they would -- we would pay cash
23 mostly back and forth.

24 Q. And once you collected that cash, how were you getting it
25 to SOS?

1 A. Uhm, around 2004 and 2005, I believe is the time, I would
2 send -- sometimes I would send money through a wire transfer or
3 a check to an account that was given to me by Bob or Richard to
4 pay. So sometimes I was FedEx'ing it, and that started, I want
5 to say 2004 or 2005, in that area.

6 Q. So you would either FedEx the cash or checks or you would
7 wire it?

8 A. Yes.

9 Q. And do you remember what the name of that fund was that
10 you were provided?

11 A. Benevolence.

12 Q. Now, before we get to some of the checks and wire
13 transfers, are you familiar with a better that was involved
14 with your subagents by the name of Mr. David Laird?

15 A. Yes. I know the name.

16 Q. And how do you know Mr. Laird?

17 A. Uhm, he was a friend of a friend of one of my subagents,
18 and he came on. And the story was that he was a pretty wealthy
19 guy, and he started betting really heavy and won, and then he
20 lost a lot of money, and he was gone.

21 Q. Now, at the time he came on, was he a better for
22 Mr. Collura?

23 A. Right.

24 Q. And Mr. Collura was one of your subagents?

25 A. Right.

1 Q. Were you already in Florida at that point?

2 A. Yeah, for many years.

3 Q. But were you concerned with Mr. Laird's betting from
4 Florida?

5 A. Concerned in what way?

6 Q. Well, was he a rather large better for that sheet?

7 A. He was a large better, and he wasn't a very intelligent
8 better.

9 Q. What do you mean by that, that he wasn't an intelligent
10 better?

11 A. He would bet exhibition football on August 1 and put a
12 \$1,000 bet on it. And nobody knows who's going to play, and,
13 you know, it's not really a smart move.

14 Q. Did that concern you?

15 A. Uhm, I -- I watched him, but he wasn't -- he wasn't -- he
16 wasn't up very long.

17 Q. At one point he won a considerable amount of money,
18 correct?

19 A. At one point he did, yeah.

20 Q. And how much money was that? Do you remember?

21 A. No, I don't. 20,000 something.

22 Q. But he was paid for that, correct?

23 A. He got paid, yes.

24 Q. And how was it that he would pay when he lost money?

25 A. Uhm, he sent a check down.

1 Q. And why was he sending checks down to you instead of just
2 paying Mr. Collura or Mr. Driscoll?

3 A. I don't remember the reason behind it, but I know he sent
4 a check down.

5 Q. So you were dealing with his settle-ups directly, correct?

6 A. Only at one time. It was right at the end. So maybe he
7 was squaring up with Mr. Collura prior to that, but he sent me
8 a check at the very -- at the very end, and in the memo of the
9 check he wrote "For gambling losses."

10 MR. FISHER: May I approach, your Honor?

11 THE COURT: Yes.

12 Q. Mr. Olson, I'm showing you what's been marked Defendants'
13 Exhibit 303. Take a look at that.

14 (Witness examining document.)

15 Q. Do you recognize what that is?

16 A. Yeah. That looks like the check that David Laird sent me,
17 October of 2005.

18 Q. Do you remember why that was broken up into two checks?

19 A. No, I don't.

20 Q. And what was your concern with those checks?

21 A. The obvious. He's got "SOS gambling losses" in the memo.

22 MR. FISHER: Again for the record, Defendants'
23 Exhibit 303.

24 Q. Now, that says -- well, it should say Benevolence Funding,
25 a clear spelling error, but was that the funding company, the

1 name you gave to Mr. Laird to send the money to?

2 A. Pardon me?

3 Q. Benevolence Funding, where did you get that name?

4 A. From SOS.

5 Q. And that was what you instructed other betters to send
6 money to if they were going to write a check, correct?

7 A. Yes.

8 Q. And you understood that check was going to satisfy their
9 gambling debt, correct?

10 A. Yes.

11 Q. When you received this check, you were concerned with the
12 memo here where it says "SOS gambling losses"?

13 A. Yes.

14 Q. Why were you concerned with that?

15 A. For the obvious reasons. It was against the law, and he's
16 putting it down on a check.

17 Q. And did you share your frustration with him, Mr. Laird?

18 A. Yes.

19 Q. Did you call him?

20 A. We spoke on the telephone.

21 Q. And what did you say to him?

22 A. I said, you know, "Why are you putting that down in
23 there?" And it was obvious that he was very upset. Uhm, he
24 was losing a lot of money and some other, uhm, investment that
25 he was involved in, and he was, uhm, really upset about

1 everything, and that's his reason for putting that down there.

2 Q. Well, he was being a wiseguy to you essentially?

3 A. Basically, yes, exactly.

4 Q. What did you end up doing with these checks?

5 A. Uhm, I still ended up sending those to the island.

6 Q. So you FedEx'd them or mailed them down to Antigua?

7 A. Or UPS, yes.

8 Q. You didn't try to negotiate them yourself, correct?

9 A. No.

10 Q. Now, getting back to Mr. Laird, at the end before his
11 account is shut off with SOS, he owed a considerable amount of
12 money, correct?

13 A. (The witness nodded affirmatively.)

14 Q. You have to answer orally.

15 A. Yes. Yes, he did.

16 Q. How much money was it that he owed, if you remember?

17 A. My guess is \$20,000 or \$30,000, but I don't know for
18 certain.

19 Q. And he communicated to you he was unable to pay that,
20 correct?

21 A. Yeah. Well, he sent another check that bounced, and we
22 just never -- it never came to be. We never got the money from
23 him.

24 Q. Did you contact him and explain to him that he owed you
25 the money and you wanted to be paid?

1 A. You know, I said that "When you won big, you got paid, and
2 now you're sending a check, and why are you putting this in
3 there?" And that's when he went on and on about his other
4 investments and losing money and going bankrupt and everything
5 else.

6 Q. And what did you do to collect that money?

7 A. Nothing. I was in Florida. I never met the guy before.
8 It -- it just, uhm -- you know, those were debts that I had to
9 repay to the office through my commissions over time.

10 Q. So because you were the agent and he was a better on your
11 sheet, you were responsible for that loss, correct?

12 A. Precisely.

13 Q. And did you pay that loss to SOS?

14 A. Oh, yeah.

15 Q. So that came out of your pocket, correct?

16 A. Yeah.

17 Q. Did you take Mr. Laird to court?

18 A. No.

19 Q. Why didn't you do that?

20 A. Because what we were doing is illegal, and you just had to
21 walk away from things like that.

22 Q. And in fact you walked away from that debt, correct?

23 A. Absolutely.

24 Q. Did you have other betters under either yourself or other
25 agents that you had to assume the loss?

1 A. More than you'd ever believe, yeah, all the time.

2 Q. And, again, you couldn't do anything to collect that
3 money, correct?

4 A. No, no.

5 Q. In fact, you had to pay it to the office, correct?

6 A. Yes.

7 Q. How much would you say you lost out of your own
8 commissions over the years you were an agent for SOS?

9 A. Uhm, I never thought about that, but a couple hundred
10 thousand dollars, I'm guessing.

11 Q. But you were also making pretty decent money at the time
12 correct?

13 A. You'd make -- you know, on paper you'd make a lot of
14 money, but if you really sat and thought about it, you really
15 didn't when it came out to it because of situations like that
16 and --

17 Q. At the end, you were a 50 percent agent, correct?

18 A. Yes, I was.

19 Q. And what years were you a 50 percent agent?

20 A. Probably just the last two or three years is my guess. I
21 don't know for sure.

22 Q. Mr. Olsen, I'm going to show you what's been marked
23 Government Exhibit 43. Take a look at what's contained in
24 there and tell us if you recognize it.

25 (Witness examining documents.)

1 A. Yes, I recognize them.

2 Q. And what do you recognize those to be?

3 A. This is a check from my account. It looks like a -- maybe
4 a cashier's check or a regular check from my account to
5 Benevolence Funding.

6 Q. And what was that check used to satisfy?

7 A. My gambling losses.

8 Q. Was that just your losses, or was that losses of your
9 betters also?

10 A. Betters also.

11 MR. FISHER: Your Honor, the government would move to
12 admit the checks contained in Exhibit 43.

13 (Government Exhibit 43 received in evidence.)

14 Q. Would you just look at the rest of those checks and let us
15 know if those are all similar checks and also used to satisfy
16 gambling losses.

17 (Witness examining documents.)

18 A. Yeah, all the same.

19 Q. And that's all seven, correct?

20 A. Every one is for the same purpose, gambling losses.

21 MR. FISHER: Could we just have the first page of that
22 exhibit up on the screen.

23 Q. Mr. Olsen, displaying to you the first page of Exhibit 43,
24 that's a check for \$20,000 to Benevolence Funding?

25 A. Correct.

1 Q. And that's from your personal bank account down in Bank of
2 America in Boca?

3 A. Correct.

4 Q. Now, you were also gambling yourself at the time, correct?

5 A. Yes.

6 Q. So you had some of your own gambling losses?

7 A. Oh, yeah.

8 Q. So this would be probably both, right?

9 A. Combination of everything thrown in there.

10 Q. And you shipped this over to Antigua?

11 A. Yes, I did.

12 Q. Did you ever ship cash to Antigua?

13 A. Never.

14 Q. Showing you Exhibit 44 and 45, take a look at those and
15 tell us if you recognize what those are.

16 (Witness examining documents.)

17 A. Yeah, I recognize it.

18 Q. And do you recognize what that is, Exhibit 44?

19 A. Yes, I do.

20 Q. What do you recognize it to be?

21 A. Money that was -- that was wired into my account, and then
22 it looks like I wired money right out right after, shortly
23 after to SOS.

24 Q. And is it to SOS or Benevolence Funding?

25 A. Well, basically the same thing, right?

1 Q. Well, you understood Benevolence to satisfy the debts to
2 SOS, correct?

3 A. Yes, to Benevolence.

4 MR. FISHER: Your Honor, the government would move
5 Exhibit 43 into evidence.

6 THE COURT: All right. How are we doing?

7 MR. FISHER: I still have a couple of exhibits and
8 then after that a few more questions, so now might be --

9 THE COURT: I leave it up to you since we've been at
10 it all morning. If it's going to be another five minutes,
11 let's go for it. If not --

12 MR. FISHER: No. It might be a little longer than
13 five minutes.

14 THE COURT: All right, so lunch today. We're going to
15 be back here at 2:00 o'clock. Now, let me just say a few
16 things to you. You noticed about four people walked out after
17 the testimony this morning. I don't know all of them, but I
18 know at least a couple were reporters, and so what's essential
19 is not to -- you're going to be downstairs going to lunch. I
20 think they know not to approach you, but obviously not to talk
21 to any of them. There also may be something in the media, so
22 don't turn on your radios during the lunch break, but otherwise
23 have a terrific time. I'll see you at 2:00 o'clock.

24 (Jury excused.)

25 THE COURT: I'll see counsel on scheduling.

1 We'll see you at 2:00 o'clock. Okay, thank you.

2 SIDEBAR CONFERENCE:

3 THE COURT: How long do you think you'll have with
4 him?

5 MR. NURIK: How much more have you got?

6 MR. FISHER: I have to get these in, then maybe like
7 another ten minutes of questioning.

8 MR. NURIK: A half hour.

9 THE COURT: All right, so he'll get out of here today.
10 You don't have much with him, right?

11 MR. HORSTMANN: No, I think he's -- I'm taking leave
12 with him. He's probably of the lengthier variety.

13 THE COURT: So that actually may take the afternoon
14 between the two of you if you both have --

15 MR. NURIK: What time are we going to go to, 4:00?

16 THE COURT: Yes. I want to get him out of here.

17 MR. NURIK: Oh, he'll get out of here today. Yes,
18 he'll get out of here today.

19 THE COURT: Whether or not the accountant comes on, I
20 don't know.

21 MR. NURIK: You're going to put Craffey back?

22 MR. FISHER: Craffey and hopefully finish, yes.

23 MR. NURIK: We might be able to do that.

24 THE COURT: Okay. So Rule 410 does not seem to apply
25 here.

1 MR. HORSTMANN: Well, the only reason I think it does,
2 your Honor, is because this is a conspiracy, and there is
3 unindicted, and she happens to be an indicted co-conspirator,
4 so any statements that she made that the government is --

5 THE COURT: I don't think that's right, but if you
6 want to do some legal research, you can. But, in any event,
7 she didn't remember it, and it was just information in the
8 question.

9 MR. NURIK: My request is for a further curative
10 instruction along the lines --

11 THE COURT: Do some briefing.

12 MR. NURIK: No, you had suggested that --

13 THE COURT: Yeah, yeah, yeah, that's right, but I
14 don't think legally --

15 MR. NURIK: At a minimum.

16 THE COURT: -- I don't think legally it was
17 inappropriate to ask. Let's put it that way.

18 MR. NURIK: Well, the only thing is, the curative
19 instruction would --

20 THE COURT: You want me to say in curative? Because
21 they won't remember, because then it's like saying don't think
22 about this --

23 MR. NURIK: Well, the problem is, then we have to play
24 with the idea of whether or not to call Mr. Stern. I mean, I
25 personally don't want to have to do that, but I have to think

1 about it.

2 THE COURT: I am willing to do it, but just like with
3 that document --

4 MR. NURIK: Right, elect.

5 THE COURT: Elect. I am willing to do that but
6 then --

7 MR. WYSHAK: I have a lot of impeachment material in
8 my old box.

9 (Laughter.)

10 THE COURT: That's awkward for everyone, awkward for
11 everyone. But let's just say this, that I am happy to say that
12 whatever was represented in terms of Mr. Stern, remember that
13 it's not the question that's evidence, it's the answer, and she
14 didn't remember anything. It just will bring it back to them.

15 MR. NURIK: You're right.

16 THE COURT: They obviously can't argue it because she
17 didn't adopt it. So let me know.

18 MR. NURIK: Okay.

19 THE COURT: All right. And I'm going to tell them
20 that they're only going to be here till 1:00 tomorrow, and so
21 if we have time, we'll do a charge conference, but if not, I'll
22 have to do a charge conference maybe on Wednesday, and you can
23 be on the phone or something.

24 MR. NURIK: Yes, I have a flight out late in the
25 afternoon Wednesday. I'm flying to Atlanta.

1 THE COURT: Oh, you're going to be here on Wednesday?

2 MR. NURIK: Oh, no, no, no. I'm flying to Florida
3 Tuesday night, and then I'm flying out from Florida on
4 Wednesday afternoon, so Wednesday morning I'm available,
5 absolutely.

6 THE CLERK: We can squeeze in. We have some things
7 on, but we can --

8 THE COURT: Just to start it because I think that --
9 well, what have you decided to do so far, I mean, in terms of a
10 case?

11 MR. HORSTMANN: I'll talk to the --

12 MR. NURIK: We've given them, as per your
13 instructions, notice summaries of two witnesses.

14 THE COURT: So there's the lawyer.

15 MR. NURIK: There's the lawyer, and there is also an
16 IT expert, which I don't know if you may want to stipulate. It
17 relates to the very question that we've been having all along
18 about the server and where the information is taken, and
19 possibly even Massachusetts law as to the registration of the
20 bet and blah-blah-blah. So we have an IT expert that we would
21 put on.

22 THE COURT: Maybe, but I just want to -- did you
23 attach his expert report to your motion?

24 MR. WYSHAK: I did not, but we can provide it.

25 THE COURT: I need to see it because he obviously

1 cannot opine on the law.

2 MR. NURIK: Well, I'm going to give you the expert --
3 you mean Mr. Mendel?

4 THE COURT: Yes, on the law of the United States or
5 Massachusetts or North of South Carolina, or wherever the heck
6 we're talking about. But I think there's some leeway for
7 experts on the law of a foreign land to the extent that it's,
8 you know, the Antigua. But then they want to put in, which I'm
9 likely to allow, notice of whatever the law is in Antigua too.
10 So, I mean, that has come into play a little bit, but just --

11 MR. WYSHAK: Your Honor, I would like to address the
12 Court on our motion to preclude this kind of evidence.

13 MR. NURIK: Can we do it another time?

14 THE COURT: I understand. I haven't even read it yet.
15 I just know this: I'm just thinking scheduling. I'm not even
16 thinking about -- that's two witnesses, and who do you have?

17 MR. HORSTMANN: My investigator, but we may be able to
18 stipulate to that, and perhaps recalling one of the troopers.

19 THE COURT: I'm simply saying --

20 MR. NURIK: We're going to finish --

21 THE COURT: -- we're going to finish this Monday
22 morning.

23 MR. NURIK: Well no, no. We're going to finish this
24 Monday, not Monday morning, Monday.

25 THE COURT: It could well be Monday morning depending

1 on how I rule on various things.

2 MR. NURIK: Well, we'll finish it Monday. We'll
3 finish it Monday.

4 THE COURT: We're going to this jury on Tuesday.

5 MR. NURIK: Now, are we going to do jury charge first?

6 THE COURT: That's why I need you. We're pretty far
7 along on the old charge actually. You've got to look at the
8 verdict slip too, and then I'm not even thinking of forfeiture
9 at this point. We'll deal with that, and I'm going to sort of
10 press hard to see if we can winnow that down to the house
11 basically, depending on what the outcome is. But that's not my
12 big concern. My big concern is, I think there's a chance we
13 would actually even go to the jury Monday afternoon in terms of
14 closing arguments. So it may be that you start preparing
15 closing arguments and then I'll do the charge, unless you all
16 agree I should flip it.

17 MR. WYSHAK: What about my rebuttal case?

18 THE COURT: Oh, all right. I'm really desperate to
19 hear about every other Todd Lyons better. I mean, I'm actually
20 looking forward to hearing all those betters come in in
21 rebuttal.

22 MR. WYSHAK: Again, not knowing what they're going to
23 do in their case, I mean, I don't want to lengthen this any
24 more than anybody else does, but, you know --

25 THE COURT: I'm excited about the betters.

1 MR. WYSHAK: Well --

2 (End of sidebar conference.)

3 (Noon Recess, 1:07 p.m.)

4 JOHN OLSEN, RESUMED

5 DIRECT EXAMINATION, CONTINUED

6 THE CLERK: All rise.

7 MR. FISHER: May I continue, your Honor?

8 THE COURT: Yes.

9 Q. Good afternoon again, Mr. Olsen. Before you I placed
10 what's marked Exhibit 44 and 45, if you could take a look
11 at, we'll start with 44. Could you tell us if you recognize
12 what's contained therein?

13 A. Yes, I do recognize it.

14 Q. What do you recognize those documents to be?

15 A. This is a list of my checking account.

16 Q. You recognize that to be a statement from your account,
17 correct?

18 A. Yes, sir.

19 Q. Could we have 44 up on the screen. And, again,
20 Mr. Olsen, that's the first page of 44, correct? Do you see
21 it on the screen there?

22 A. Yes, I do.

23 Q. I'd like to zoom in on the first pertinent section.
24 Mr. Olsen, I'm showing you a line dated November 16th.

25 A. I can see it.

1 Q. Can you tell us what that is?

2 A. That was money that was wired into my account.

3 Q. That was a \$10,000 wire?

4 A. Yes, sir.

5 Q. That increased your balance to about 70,000; is that
6 correct?

7 A. Yes.

8 Q. And who is the originator of that, Byron Haseotes?

9 A. Yes.

10 Q. Who is that?

11 A. A friend of mine who gambles.

12 Q. He was a gambler with SOS?

13 A. Yes, he was

14 Q. And you were his agent?

15 A. Yes.

16 Q. And could we have the next pertinent section of the
17 first page of 44. Mr. Olsen, referring your attention to
18 the line dated November 24th?

19 A. Yes.

20 Q. Can you tell the jurors what that is?

21 A. That is a wire going out to Benevolence Funding from me
22 for 25,000.

23 Q. And that wire to Benevolence Funding was that to satisfy
24 gambling debts with SOS?

25 A. Yes, it was.

1 Q. And who instructed you to wire 25,000 to Benevolence
2 Funding?

3 A. It would have been Richard Sullivan.

4 THE COURT: What year was this one?

5 Q. What year is that, Mr? Olsen, you can look at the
6 exhibit, 44.

7 A. '06.

8 Q. And this is a reflection of your statement November
9 through December of 2006?

10 A. Correct.

11 Q. And that's consistent with your memory, correct?

12 A. Yes, sir.

13 MR. FISHER: Your Honor, the government moves to
14 admit Exhibit 44 into evidence.

15 THE COURT: Okay.

16 (Wire transfer was admitted into evidence as
17 Government Exhibit No. 44.)

18 Q. Referring again to Exhibit 44, I'd like to refer your
19 attention to the next wire. Again, this is June, looks like
20 June 1st. Can you tell the jurors what that is?

21 A. That is a wire to Antigua for \$15,000.

22 Q. And what was that \$15,000 for?

23 A. For gambling debt.

24 Q. And, again, you were instructed by SOS to --

25 A. Yes, I was.

1 Q. To institute that wire. Could I have the next section
2 of Exhibit 44. Again, same question, Mr. Olsen, can you
3 tell the juror what that is?

4 A. Same exact thing, that is a wire to Antigua on June 15th
5 for \$30,000.

6 Q. And that was out of your bank account?

7 A. Yes, it was.

8 Q. Again, was that to satisfy gambling debts?

9 A. Yes, it was.

10 Q. Just to clarify, these were debts that could have been
11 yours but also your betters, correct?

12 A. Yes.

13 Q. Could you please look at Exhibit 45. Do you recognize
14 what's contained in Exhibit 45?

15 A. Yes.

16 Q. And what is that?

17 A. That's a list of my checking account from October 7th of
18 '06 through November 7th of '06.

19 Q. And, again, that's the same checking account we were
20 speaking of in Exhibit 44?

21 A. Yes, it was.

22 Q. Could I have Exhibit 45 on the screen. And could we
23 just zoom into the pertinent transfer. Mr. Olsen, again,
24 this looks like it's a transfer on October 27th. Could you
25 explain those transfers to the jurors, please, starting with

1 at least the first one, the \$30,000?

2 A. This is money wired into my account the same day it's a
3 wire going out for 50,000 to Antigua.

4 Q. Now, the first wire, the wire going in, the 30,000 to
5 credit your account, that's from Byron Haseotes?

6 A. Yes, it is.

7 Q. And that was a better of yours, as you said, correct?

8 A. Yes.

9 Q. And is that 30,000 money he owed to you?

10 A. To SOS, yes.

11 Q. And then you wire out 50,000 the same day, correct?

12 A. Yes.

13 Q. And that was wired to SOS?

14 A. Yes.

15 Q. And that was to satisfy gambling debts?

16 A. Yes, it was.

17 MR. FISHER: Your Honor, the government would move
18 to admit Exhibit 45 into evidence.

19 THE COURT: All right.

20 (Wire transfer was admitted into evidence as
21 Government Exhibit No. 45.)

22 Q. Showing you Exhibit 47, take a look at that and tell us
23 what that is. Do you recognize what those documents are?

24 A. Yes, I do.

25 Q. What are those?

1 A. Those are checks from one of the customers to
2 Benevolence Funding for 20,000 and 20,000.

3 Q. And who is that customer?

4 A. A friend of mine that gambles.

5 Q. That was a better?

6 A. Yes.

7 Q. And you were his agent?

8 A. Yes, I was.

9 MR. FISHER: Your Honor, the government would move
10 to admit Exhibit 47 into evidence, and if we could have at
11 least one of those checks up on the screen.

12 (Checks were admitted into evidence as
13 Government Exhibit No. 47.)

14 Q. Mr. Olsen, this check from Branislav Stamenkovic?

15 A. Yes.

16 Q. And is that your friend who was the better?

17 A. Yes.

18 Q. Did you instruct him to write the check out to
19 Benevolence Funding?

20 A. Yes, I must have. He wouldn't have known about it
21 without me telling him.

22 Q. And this is a check dated January of '06?

23 A. That's correct.

24 Q. Is that a time period he was betting through you to
25 SOS?

1 A. Yes.

2 Q. Now, this check, do you have a memory of this check
3 being sent to you in Florida?

4 A. I really don't.

5 Q. Checks like this that were sent to you in Florida, what
6 would you typically do with them?

7 A. I would put them in FedEx or UPS, whatever carrier, and
8 send them to the island.

9 Q. Now showing you what's been marked Exhibit 229, take a
10 look at the documents contained therein. Mr. Olsen, do you
11 recognize what those documents are?

12 A. Yes, air bills from FedEx from me to Antigua to Sports
13 SOS.

14 Q. And there are multiple FedEx slips there, correct?

15 A. Yes, sir.

16 Q. And are those all from you to SOS in Antigua?

17 A. Are they all going to --

18 Q. Are those all from you to SOS?

19 A. They're all going to SOS.

20 Q. And who instructed you to send envelopes like that to
21 SOS in Antigua?

22 A. Most likely Richard Sullivan.

23 Q. And do you remember what time period you were doing
24 that, sending checks out to SOS?

25 A. Around the same time as this check on the screen.

1 Q. For '05-'06?

2 A. Exactly.

3 MR. FISHER: Your Honor, the government would move
4 to admit 229 into evidence.

5 THE COURT: Yes. We don't need it on the screen?

6 MR. FISHER: We can take this exhibit down, sure.

7 (FedEx slips were admitted into evidence as
8 Government Exhibit No. 229.)

9 Q. Now, Mr. Olsen, how long were you involved as an agent
10 for SOS, up until what year?

11 A. March of 2010.

12 Q. So right up until --

13 A. Yeah, yeah, about March of 2010.

14 Q. Up until around the time you were put into the grand
15 jury, correct?

16 A. Yes, sir.

17 Q. At that point in time or in the 2009, 2010, was there a
18 change in how you were settling up with SOS?

19 A. To my knowledge, it was still Tom would still meet with
20 Todd but towards the end, I met with Danny four, five, six
21 times.

22 Q. And where was that that you were meeting with
23 Dan Eremian?

24 A. At his house or -- I think at his house almost every
25 time, yeah.

1 Q. And were you bringing cash, checks?

2 A. Cash.

3 Q. And the cash that you were bringing to Dan Eremian, how
4 much would you say you were bringing to him on each
5 occasion?

6 A. I'm uncertain of the amounts, 5,000, 10,000, 15.

7 MR. NURIK: I'm going to guess to his guessing.
8 He's uncertain.

9 THE COURT: Just make an estimate.

10 Q. Based upon your experience as an agent, what would be
11 the approximate?

12 A. 5,000.

13 Q. That would be worth you visiting Dan to pay, correct?

14 A. Correct.

15 Q. Now, how did you know to change at the end, why did you
16 stop sending FedExes?

17 A. I was told to, "no more wires."

18 Q. And who told you no more wires?

19 A. Richard Sullivan.

20 Q. Richard Sullivan. And when he said no more wires, did
21 he instruct you to just bring the money to Danny?

22 A. Yes.

23 Q. And you knew Danny by that point, correct?

24 A. Yes, I knew him for several years.

25 Q. In fact, you had met him in 2001?

1 A. Correct.

2 Q. And shortly thereafter after you had settled up with Dan
3 for these handful of times, when you were served with a
4 grand jury subpoena, what did you do?

5 A. I think I called Dan was the first thing that I did, and
6 he said to call Bob, tell him what's going on.

7 Q. So when you were served for the grand jury subpoena for
8 which you did testify pursuant to, you called Dan Eremian
9 first?

10 A. I believe so, yes.

11 Q. And that was at the time that you were settling up with
12 him, correct?

13 A. Yes.

14 Q. And that was at the end, 2009, 2010?

15 A. Yes.

16 Q. And did you eventually reach out to Bob after you were
17 served with a grand jury subpoena?

18 A. Yes, yes, I did.

19 Q. You called him first, correct?

20 A. Bob?

21 Q. Bob?

22 A. I called Richard and told him what was going on, and I
23 don't know if I talked to Bob or we text messaged but we
24 communicated.

25 Q. And eventually you end up leaving the country to go

1 visit Bob, correct?

2 A. Correct.

3 Q. Tell the jurors about that.

4 A. I met Bob in St. Kitts shortly after I was served, and
5 we met for two or three days. We were down there total two
6 or three days in St. Kitts.

7 Q. Now, at the time you spoke with Bob, were you aware of
8 Carib Sports?

9 A. I had known of it, yes.

10 Q. What did you know about Carib Sports?

11 A. That it was a separate entity from SOS, but it was
12 what's called a post-up, meaning that there weren't agents
13 like me involved, they were individuals that would give a
14 credit card for a certain amount of money that they wanted
15 credit for, and they would gamble with that credit, and they
16 would either lose that credit or win, and they settle
17 whatever way. I don't know how that worked, the settling
18 part.

19 Q. Did you understand that Robert Eremian owned
20 Carib Sports?

21 A. I assumed he did.

22 MR. NURIK: Objection and move to strike.

23 THE COURT: Sustained.

24 Q. Did you know who owned SOS Sports or Sports Off Shore?

25 A. I always believed that it was Bob. He was the main

1 guy.

2 Q. Now, you stated SOS was not a post-op operation as far
3 as you knew?

4 A. As far as I knew, the way I worked it was the way it's
5 been described here today, but at some point there was
6 advertising that spoke of it being a post-up as well.

7 Q. Did you know of any customers that posted up?

8 A. No, I did not.

9 Q. In fact, none of your customers posted up, correct?

10 A. No, but sometimes I saw the advertising of getting 15
11 percent back and they would inquire about it.

12 Q. So the 15 percent back on some of the literature was
13 only if you posted up?

14 A. If you posted up and you didn't have an agent.

15 Q. Now, in a post-up situation, is it true that a better
16 would send say \$500 and they'd be able to lose 500 and
17 that's the end of it?

18 A. Right.

19 Q. Until they send more cash down so they can only bet the
20 amount of money they have in the account, correct?

21 A. I don't think it was cash, I think it was a credit card
22 they would give, I believe it was a credit card.

23 Q. And that's your understanding of the difference between
24 a post-up in a company like SOS, correct?

25 A. Correct.

1 Q. I'd like to ask you about an event which occurred out
2 near the Barking Crab here. Are you familiar with an SOS
3 themed event?

4 A. Yes, I am.

5 Q. And when was that event?

6 A. I would say it was '99.

7 Q. And were you associated with that event?

8 A. Yes, I was.

9 Q. And what was the name of it, if you remember?

10 A. If I'm not mistaken, it was called the Butchy Palooza, I
11 don't know, something else. They had some sort of an event
12 going on with a guy by the name of Tom Spears, and he had
13 been a player with me for a very short time, lost like about
14 \$5,000 and he couldn't pay it. He came and was --

15 Q. This Mr. Tom Spears, is that Butch from the Cape?

16 A. That was his alias, he was a radio call-in person, and
17 he was a charismatic guy, he always had a good story, had a
18 good sounding voice, and people liked him, and they put him
19 on the radio all the time to talk bad about the Red Sox and
20 Patriots, he was a fan, the anti-Boston guy but he had a
21 little shtick that kind of worked here for a while.

22 Q. That was on what, WEEI?

23 A. Correct, the sports show.

24 Q. You knew him personally, correct?

25 A. Yes.

1 Q. And that was because he was from the Cape?

2 A. Well, he had moved to the Cape, but he was from New York
3 originally, right.

4 Q. What did he do down the Cape?

5 A. He was a desk clerk at a hotel -- motel on Cape Cod in
6 Hyannis.

7 Q. At some point prior to '99 he started to bet through
8 you?

9 A. Correct.

10 Q. And with SOS, correct?

11 A. Yes, sir.

12 Q. And he wasn't able to pay you the money he owed,
13 correct?

14 A. Correct.

15 Q. What did he suggest would be a way to --

16 A. I mean, it was a while after because his debt just -- we
17 knew it was never going to get paid, and he came and said
18 why don't I do a little promotion for SOS and that can maybe
19 pay off whatever debt I had, so I mentioned it to Bob, and
20 the event was just going to be a day in his honor, and it
21 was right here, and there was a boat, and we had a banner
22 made up with SOS and the phone number and some T-shirts and
23 maybe some hats, and it was like an all day event with Butch
24 starting at like six in the morning, and I don't even know
25 if we even went out on the boat, but part of it was done

1 right in the Barking Crab, and the other part we went out on
2 the boat when it was over. I don't know if we actually left
3 the dock or if we just sat right there, I can't remember.

4 Q. And at least a part of the Barking Crab, that was
5 sponsored by WEEI, correct?

6 A. Yes, it was.

7 Q. And it was a radio show?

8 A. Yes, it was.

9 Q. Whose boat was it, by the way?

10 A. It was -- at one point it was my dad's boat, and he had
11 sold it a couple years earlier, and he was friendly with the
12 guy that he sold it to, and we contacted him and he said,
13 yeah, sure, we'll get involved. He knew who Butch was, and
14 he brought the boat over from Charlestown, so he drove it
15 over from Charlestown to put there for the event.

16 Q. And you just parked it out in front of the Barking Crab,
17 correct?

18 A. Yes, sir.

19 Q. And put a little banner on it?

20 A. Yes.

21 Q. And who was in charge of the boat part of the event at
22 least from SOS?

23 A. It was -- it was very informal. If there was somebody
24 in charge, I guess it would have been me. I arranged for
25 the boat because Butch always talked about having a boat,

1 and his boat turned out to be a 12-foot boat, so it wasn't
2 going to be helpful for his image to show up with his actual
3 boat.

4 Q. And you had T-shirts printed up, correct?

5 A. Right.

6 Q. I actually put in front of you Defense Exhibit I believe
7 310.

8 A. Right.

9 Q. Is that something you had printed up?

10 A. Right, yeah.

11 Q. And you handed those out to folks that were on the
12 boat?

13 A. We handed out a number of them to whoever.

14 Q. Were you handing out any of the cards they had, any of
15 the SOS cards?

16 A. I don't remember the card part. I don't remember
17 that.

18 Q. Was there -- now this was before you moved to Florida,
19 correct?

20 A. This was before I moved to Florida because when I moved,
21 shortly after I moved to Florida Butch passed away, so I
22 know it was before then.

23 Q. Now, the shirt, which is marked Exhibit 310, can you
24 look at that for a minute and tell us if that is one of the
25 shirts you had printed up on behalf of SOS?

1 A. Yes, 100 percent.

2 Q. Where did you get that little design there?

3 A. This whole -- this was all sent to me, and I must have
4 brought this to a person that does Monograms and T-shirts
5 and hats, and they designed it.

6 Q. It's fair to say that shirt doesn't say "gambling"
7 anywhere on it, correct?

8 A. It doesn't say "gambling."

9 Q. And during the event, either at the Barking Crab or on
10 the boat, did you have operators taking bets or have a
11 computer taking bets?

12 A. No, no.

13 MR. FISHER: Can I have one second, your Honor.

14 Q. Now, earlier -- well, actually, strike that. Who else
15 that was associated with SOS was on the boat?

16 A. I think it was just Tom Driscoll and I to the best of my
17 knowledge right now. It was just us two.

18 Q. So not even Bob Eremian was there, correct?

19 A. No.

20 Q. And all the other folks that were on the boat were there
21 just to, what, see Butch?

22 A. Yeah, Butch came with his wife, and, of course, it
23 brought WEEI had like a comedian, and he was on the boat,
24 and there were a couple of girls from Hooters or a dance
25 club that were on the boat, and it wasn't a big number of

1 people.

2 Q. So this wasn't a long-term marketing campaign you were
3 involved, correct?

4 A. No, no, no, no, it was just a few hours in one day that
5 happened to be right here where we are almost right now.

6 Q. Did you at any time when you worked as an agent have any
7 of your betters that were sort of out of control with the
8 gambling?

9 A. Define out of control.

10 Q. Well, if you had told me a quote, "an out of control
11 train has to stop at some point," do you remember making a
12 statement like that?

13 A. No, Bob made that statement to me one point about a guy
14 that lost a lot of money in a short time, and that was how
15 he described it.

16 Q. And what was that -- what did that comment mean, what
17 type of better is that?

18 A. A guy that was trying to double up, you know, he lost
19 and he would try and make up for it all in the next week,
20 and if he lost again, he'd try to do it the next week,
21 something like that.

22 Q. Now, you stated earlier on direct before the break that
23 you understood Dan Eremian to be an agent, correct?

24 A. Yes.

25 Q. Did you have any conversation with Danny about SOS or

1 your customers or his customers?

2 A. We definitely spoke about gambling over time. I would
3 tell him I'm sure about some of my customers.

4 Q. Did he ever describe to you any customers that won too
5 much and he had to cut off?

6 A. One time he described a guy that won a lot of money in
7 two or three weeks and he paid him and said go play
8 somewhere else.

9 Q. And was that typical in your experience if somebody was
10 winning too much, was that referred to as like a "wise
11 guy"?

12 A. A "wise guy" was somebody that always had the best line,
13 in other words, if a game come out at three points on a
14 Monday, and it went to five, he would wait till the five and
15 take it at that, so he knew when to get on that line, so
16 that was what was considered a wise guy.

17 MR. FISHER: Can I have one moment, your Honor?

18 Q. Just one last question, Mr. Olsen. The Defense
19 Exhibit 303 which were the David lire checks --

20 A. Yeah.

21 Q. -- did you instruct him to send new checks to you to
22 satisfy that debt, do you remember?

23 A. I didn't remember, but I was informed that I did, so,
24 yes.

25 Q. That wasn't part of the money you had to pay on his

1 behalf, correct?

2 A. Say that again, please.

3 Q. At least this 10,000 for the two checks that had the SOS
4 gambling loss on them?

5 A. Right.

6 Q. You believe he may have sent you new checks for this,
7 correct?

8 A. The checks that he sent may have come before that. I
9 don't know if that was before and after.

10 MR. FISHER: No further questions.

11 CROSS-EXAMINATION

12 BY MR. HORSTMANN:

13 Q. Good afternoon, Mr. Olsen. With respect to your memory
14 of events that have taken place in your relationship with
15 SOS over the last 10 years, is it fair to say that your
16 memory is being refreshed?

17 A. On some cases, absolutely.

18 Q. Okay. And it's been refreshed since you started meeting
19 with law enforcement officials just prior to your grand jury
20 testimony, correct?

21 A. It's been refreshed the whole way through, yes.

22 Q. Okay. In fact, the first time you met with them in
23 February of 2010, you told them that you knew Eremian but he
24 had loaned you money to start your fitness center,
25 correct?

1 A. That's correct, too, yes.

2 Q. And that you paid him by check once a month, right?

3 A. That is correct.

4 Q. And then it was pointed out to you that you were asked
5 whether you also bet with Mr. Eremian, correct?

6 A. I'm sorry, say that question again.

7 Q. You were also asked if you bet with Mr. Eremian?

8 A. When was that asked of me?

9 Q. During this initial interview with IRS agents?

10 A. It may have been. I don't recall the question.

11 Q. Do you remember telling them that you had not placed any
12 bets with Mr. Eremian, he had just loaned you money?

13 A. I possibly did because I never physically placed a bet
14 with Bob, that's correct.

15 Q. That's a curious distinction. What do you mean you
16 never physically placed a bet?

17 A. I never called Bob and said, Bob, I want \$100 on the
18 Patriots tomorrow.

19 Q. You were a customer of his when he had the garage in
20 Lynnfield, right?

21 A. Yes, sir.

22 Q. And you would call Lynnfield, right?

23 A. I would call the 617 number in Lynnfield.

24 Q. And someone would answer the phone, right?

25 A. Yes.

1 Q. And you didn't consider that placing a bet with Bob when
2 you were being interviewed with the IRS agents in 2010?

3 A. That's -- you said directly with Bob, indirectly I
4 placed it with a clerk that worked for Bob at SOS at his
5 garage in Lynnfield, yes.

6 Q. When you were being interviewed by the agents in 2010,
7 you drew a distinction in your mind between actually placing
8 a bet with Mr. Eremian and placing a bet with somebody who
9 was answering a telephone in Mr. Eremian's garage?

10 A. If you want to put it that way, correct.

11 Q. Okay. Then the agents presented you with some
12 documents, and you changed your story and said you had
13 placed a few bets; is that correct?

14 A. When they showed me the documents, I said that I recall
15 saying to them that I think I'd like to have my attorney
16 here, and that's when it ended.

17 Q. Okay. Well, you've moved ahead of me a little bit, but
18 it was after they showed you seven checks that all were for
19 substantial amounts of money that you asked for a lawyer,
20 right?

21 A. They showed me whatever number of checks it was, I don't
22 recall, and at that moment I said I think I should have my
23 attorney here.

24 Q. Okay. So in the course of your initial interview with
25 IRS agents, you went from Bob loaned you money for

1 Galaxy Fitness to you didn't bet to you placed small bets to
2 asking for a lawyer, right?

3 A. The small bet part I don't recall. It wasn't talked
4 about how much or whatever.

5 Q. All right. And then you went in front of the grand
6 jury, right?

7 A. Yes, I did.

8 Q. And Mr. Wyshak was there, correct?

9 A. Yes, he was.

10 Q. And you were asked questions about your friend Byron,
11 correct?

12 A. I was asked about some of the checks, yes, I was.

13 Q. Okay. And at that time you were asked by Mr. Wyshak if
14 you knew what the purpose of Benevolence Funding was,
15 correct?

16 A. Yes, sir.

17 Q. Okay. And you indicated to Mr. Wyshak that you didn't
18 even know what the word "benevolence" meant, right?

19 A. That's correct.

20 Q. So it wasn't suspicious to you at all that you were
21 being asked to write checks to something called Benevolence
22 Funding, right?

23 A. It wasn't suspicious, I mean, I knew what we were doing
24 and why we were doing it. I didn't take the time to look at
25 the actual name of what we were sending and what was being

1 tried to be portrayed by Benevolence Funding.

2 Q. All right. Well, until the point in time that
3 Mr. Wyshak told you what "benevolence" meant, you didn't
4 have any problem with the checks you had written, right?

5 A. No, I was sending them to Benevolence. I could have
6 sent them to SOS, whatever he would have asked I most likely
7 would have wrote down on the check.

8 Q. Okay. On some occasions you sent personal checks,
9 correct?

10 A. Yes, I guess I did.

11 Q. And those had your name on them, right?

12 A. Yes.

13 Q. And your signature, right?

14 A. Yes.

15 Q. And your personal bank account, right?

16 A. Yes.

17 Q. And you weren't attempting to hide the fact that you
18 were sending a check to some entity in Antigua called
19 Benevolence Funding, right?

20 A. I was sending them down to the island thinking that
21 nothing was ever going to happen about it. It was ignorance
22 on my part.

23 Q. All right. Well, your feeling of ignorance has been
24 enhanced by the fact that you've been told certain things by
25 the government over the last year, right?

1 A. Well, I don't have to be told what I know happened.

2 Q. Okay. But you were educated in terms of believing in
3 the word "Benevolence Funding?"

4 A. Yes, I was.

5 Q. Now, it's hard to look back over the last 10 years and
6 not think about what you did in terms of sending checks to
7 Benevolence, right?

8 A. I was told to write them and send them down, and I
9 did.

10 Q. And at the time that you were sending these checks down,
11 you were -- well, let me back up. Also at the grand jury
12 you were told by Mr. Wyshak about changes in the law; do you
13 remember that?

14 A. Yes, I remember that.

15 Q. And do you remember saying you remember something about
16 that?

17 A. I remember, I recall a little bit about some of the
18 changes in the laws around '05 or '06, somewhere in that
19 time period.

20 Q. Okay. That refreshed your memory as to why you were no
21 longer sending checks to Benevolence Funding but you were
22 sending wires, right?

23 A. No, I believe that the checks and the wires both were
24 under the same guidelines.

25 Q. Do you remember being asked -- do you remember being at

1 the grand jury with Mr. Wyshak on March 25th of 2010?

2 A. Yes, I do.

3 Q. Do you remember being asked the following question --

4 MR. FISHER: What page?

5 MR. HORSTMANN: I'm sorry, page 17.

6 Q. Do you remember being asked the following question:

7 "And you don't know why they changed the practice of wiring
8 money to Antigua?" Answer: "I never asked. I never
9 asked." Do you remember that?

10 A. Yes.

11 Q. Okay. Do you remember being asked the follow-up
12 question by Mr. Wyshak: "Well, okay. But did you know that
13 Congress passed legislation that regulated transfers,
14 financial transactions involving illegal gambling activity?"
15 Do you remember that question?

16 A. Yes, I do.

17 Q. Do you remember what your answer was?

18 A. I don't recall the exact answer.

19 Q. Okay. Do you remember saying, "I knew there was some,
20 some law changes. I didn't know the extent of them." Do
21 you remember saying that?

22 A. Yes, I do.

23 Q. Okay. So, and then Mr. Wyshak asked another follow-up
24 question, "Did you know that's why they changed their
25 practice?" What was your answer?

1 A. I don't recall.

2 Q. You said, "Now that you mention it, I'm not sure that's
3 the reason why, right?"

4 A. Yes.

5 Q. Okay. You were at the grand jury, right, you knew you
6 had lied to IRS agents when you met them a month before,
7 right?

8 A. I lied to them?

9 Q. Yes.

10 A. Regarding what now?

11 Q. Regarding whether you had bet with Bob Eremian?

12 A. Well, I mean, if you look at it -- I didn't lie if I
13 thought that the question was did I ever put in a physical
14 bet with Bob, so I don't look at it like that. I bet -- did
15 legally, I mean, logistically did it go through Bob, yeah,
16 but did I physically put it through Bob, no.

17 Q. Let me ask the question another way.

18 THE COURT: Wait, say that again. What did you
19 just say?

20 THE WITNESS: He had asked me did I -- I thought
21 the question was did you ever put in a bet through Bob like
22 call Bob and physically say Bob, Johnny, put in a bet on the
23 Patriots game, and it wasn't that, it was more that I was
24 putting it in through one of the clerks.

25 Q. Well, at that point in time that you met with the

1 agents, you knew that you were -- met with the IRS agents,
2 you knew that you were an agent for SOS, right?

3 A. Yes, I was.

4 Q. And you didn't want them to find that out?

5 A. I'm sorry.

6 Q. You didn't want them to find that out, right?

7 A. I guess I wouldn't want them to know that I was an agent
8 doing illegal gambling, no.

9 Q. That's why you said you didn't bet with Bob, and then
10 you said you may have placed a few bets with him, you were
11 trying to downplay your role with SOS, right?

12 A. I don't recall the exact way that that went down.

13 Q. And then they showed you a series of checks, 20,000,
14 30,000, 10,000, and you lawyered up, right?

15 A. I said I should probably do this with my lawyer.

16 Q. Now flash forward, a month later you're in the grand
17 jury with Mr. Wyshak, and you're trying to look smart,
18 right?

19 A. I'm trying to answer the questions.

20 Q. All right.

21 A. I don't know about smart.

22 Q. He's telling you things about the law, and you're
23 agreeing to them, right, you're saying I remember that now,
24 right?

25 A. Yeah.

1 Q. Okay. And with respect to the period of time that you
2 remember this law being introduced, do you remember when
3 that was?

4 A. I remember when Mr. Wyshak asked me the question what
5 came back to me was that at a certain period before this
6 that there was some concern going on, and Bob -- I had
7 actually talked to Bob on the phone at one time, and he said
8 you should read, read up on some of the changes that's going
9 on, they're very important.

10 Q. And did you read up on those?

11 A. Briefly I did look some of them up on the Internet.

12 Q. What did you learn?

13 A. That there was a law changed by Bush in '05 or '06 that
14 changed the laws of the gambling from the U.S. to some of
15 the islands.

16 Q. Okay. And is that why you're willing to say here in
17 court today that you thought what you were doing was
18 illegal, right?

19 A. Yeah, but, I mean, we always knew it was illegal, that's
20 why we were meeting in parking lots, didn't have a
21 storefront.

22 Q. In 1995, when you were calling Bob's garage in
23 Lynnfield, you knew that was illegal, right?

24 A. Yes, sir.

25 Q. Because you were on the phone somewhere in

1 Massachusetts, and you were talking to somebody in Lynnfield
2 in Bob's garage, right?

3 A. Right.

4 Q. And you knew that was a violation of Massachusetts law,
5 right?

6 A. Yes.

7 Q. And then the business that became known as SOS opened in
8 Antigua, right?

9 A. Yes.

10 Q. And the servers were in Antigua, right?

11 A. Yes.

12 Q. And the call center was in Antigua, right?

13 A. Yes, it was.

14 Q. And there was an Internet website that people could
15 place bets on, right?

16 A. Yes.

17 Q. And the technology changed the way that people perceived
18 the bets they were placing, right?

19 MR. FISHER: Objection, your Honor.

20 THE COURT: Sustained.

21 Q. The technology, the fact that the call center was moved
22 to Antigua and the fact that the Internet site was available
23 changed your perception of the legality of it, right?

24 MR. FISHER: Objection.

25 THE COURT: Overruled.

1 A. Not really. I mean, I was still doing business the same
2 way, whether they were -- it wouldn't have mattered to me if
3 they were in Lynnfield or in Antigua.

4 Q. Tell me how you were doing the business the same way.
5 Were you calling in bets for your customers?

6 A. No, my customers still called in their own bets.

7 Q. Okay. So you weren't placing the bets yourself,
8 right?

9 A. That's correct.

10 Q. All right. And you were able through the Internet to
11 monitor what your customers were betting on, right?

12 A. At a certain point, yes, that's correct.

13 Q. And a lot of them were taking advantage of the Internet,
14 right?

15 A. A lot of them were, yes.

16 Q. And did you yourself take advantage of the Internet to
17 place bets?

18 A. Yes, I did.

19 Q. And that made it even easier to place bets and track
20 bets, right?

21 A. Yeah, after the Internet started becoming more popular
22 and the site went up and everybody started owning computers,
23 yes.

24 Q. And those records were there for you or your betters to
25 use if there was ever a conflict with SOS over who bet on

1 what, right?

2 A. They could go back in if they were on -- if they were on
3 the Internet and went to the site, they could see what they
4 played, yes.

5 Q. All right. That changed your perception as to whether
6 or not this was illegal, right?

7 MR. FISHER: Objection, your Honor.

8 THE COURT: Overruled.

9 A. The fact that Bob told me that he got a legal license
10 and the fact that for a short period of time the radio was
11 inundated with companies like SOS that were doing
12 advertising led me to believe there was a legal portion of
13 it that was more on the post-up end, correct.

14 Q. Okay.

15 A. What you're referring to.

16 Q. All right. And then you come to this point in time
17 where you actually host an event for or was sponsored by SOS
18 at the Barking Crab, right?

19 A. Yes.

20 Q. Okay. And I believe you said you were in charge of this
21 event for SOS, right?

22 A. If somebody was in charge, I guess you could say it was
23 me.

24 Q. Okay. Well, you were part of the -- for lack of a
25 better word -- ruse to get Butch on a big boat and to sail

1 into Boston Harbor and be at the Barking Crab, right?

2 A. I was involved in it, yes.

3 Q. And it appears now that the boat did not come from the
4 Cape, it actually came from Charlestown, right?

5 A. Yes, it was.

6 Q. And who chose the venue?

7 A. EEI.

8 Q. EEI chose the Barking Crab. This building was here?

9 A. I don't know.

10 Q. You don't remember the big brick building that said the
11 federal courthouse on it?

12 A. No, I don't.

13 THE COURT: You didn't think twice about having
14 that boat right outside?

15 THE WITNESS: I did not. I didn't even know if
16 the courthouse was here at the time or not in '99, was it?

17 Q. And 1999 is your best memory, right?

18 A. It was before I left Massachusetts to move to Florida.

19 Q. Which was when?

20 A. I moved August of 2001.

21 Q. Okay. So it was your memory that it occurred some time
22 before August of 2001?

23 A. Yes, Butch got ill, and he was ill for about a year, so
24 that makes it probably '99. He died shortly after I moved
25 to Florida.

1 Q. Okay. And if Mr. Driscoll testified that this was five
2 or six years ago, you would disagree with that?

3 A. 100 percent. He's definitely wrong. It wasn't five or
4 six years ago. Butch died in '01. That would really be a
5 nice feat to bring him back five years after his death.

6 Q. So your memory disagrees with Mr. Driscoll?

7 A. Obviously it does, yeah.

8 Q. And with respect to the advertising that was done at
9 that event, you paid for it, correct?

10 A. And I was reimbursed from the money that I owed SOS.

11 Q. So you acquired the T-shirts, right?

12 A. I was sent the diagram on what to do and how to design
13 them, brought it to the embroiderer, had them designed and
14 was reimbursed from the money I owed SOS.

15 Q. Okay. Were you responsible for the creation of these
16 cards as well?

17 MR. HORSTMANN: If we may have the overhead, madam
18 clerk.

19 A. No, I wasn't.

20 Q. You did not create those?

21 A. No.

22 Q. Do you know who did?

23 A. I would just assume the office, Bob's office did.

24 Q. In Antigua?

25 A. In Antigua, that's my guess.

1 Q. All right. You'd agree it's the same emblem that's on
2 the T-shirt?

3 A. Yes.

4 Q. Similar colors?

5 A. Yes.

6 Q. And your testimony is you had nothing to do with the
7 creation?

8 A. I don't remember these cards at all.

9 Q. Was there a standard place in Massachusetts that you
10 used for creating these type of promotional materials?

11 A. Well, it was the only one I've ever done.

12 Q. You owned a gym, right?

13 A. Yeah.

14 Q. Did you ever do promotional materials like this,
15 T-shirts, cards for your gym?

16 A. Cards, no. I never did any cards. T-shirts, I did. So
17 I did -- I probably did these at the same place which was
18 100 yards or less from where my gym was located in Hyannis,
19 that's probably where I did those.

20 Q. Your testimony was you didn't do those cards?

21 A. I don't remember those cards at all.

22 Q. You've never seen those cards before today?

23 A. I still haven't. Is that a piece of paper or is that an
24 actual card?

25 MR. HORSTMANN: May I approach the witness, your

1 Honor?

2 THE COURT: Sure.

3 A. I don't remember if that's a plastic card, I don't
4 remember that at all.

5 Q. You don't need to touch it?

6 A. No, I don't.

7 Q. So you never received a sleeve of these to hand out to
8 your betters or perspective betters?

9 A. As I said, I don't remember those cards at all.

10 Q. Okay. And what would you do in terms of getting your
11 customers either the 800 number or the website or both?

12 A. I would tell them what it was.

13 Q. And --

14 A. The shirts definitely I remember. I don't remember
15 those cards at all.

16 Q. Okay. Would you agree with me that at least with
17 respect to your customers and your betting that initially
18 bets may have been made by telephone and that as people grew
19 more comfortable with the website, they placed their bets on
20 the website?

21 A. I'm sorry, what's the question exactly?

22 Q. Would you agree with me that with respect to your
23 customers and your betting, early bets were placed with the
24 800 number, and then as people grew more accustomed to the
25 website, they placed their bets over the Internet?

1 A. That's probably correct.

2 Q. And is that true for large betters like Mr. Laird as
3 well?

4 A. Mr. Laird was maybe a customer for 30 days. I don't
5 recall how he placed his, if he called them in or if he used
6 the Internet.

7 Q. Okay. And as you sit here today, the checks that you've
8 reviewed or the cash that you testified Mr. Driscoll would
9 meet with Mr. Lyons in order to pay or receive, you cannot
10 break down for us whether any of those bets, whether those
11 represent bets that were lost on the Internet or lost on the
12 800 number?

13 A. No, we'd get a sheet Monday morning saying this is what
14 was lost, and it wouldn't break down 42 percent was called
15 in and so much was bet on the Internet, no, it was never
16 done like that.

17 Q. All right. And with respect to the cash itself,
18 Mr. Driscoll would meet with Mr. Lyons a couple times a
19 month, correct?

20 A. Whenever the number made them need to get together.

21 Q. All right.

22 A. It might not be for two months, I don't know.

23 Q. Okay. It certainly wasn't every week, right?

24 A. No, it was not.

25 Q. And Mr. Driscoll would take the cash that he received

1 from lost bets and he would ship it down to you?

2 A. No, Mr. Driscoll would meet with Todd or Todd would meet
3 with Mr. Driscoll and give money to Tom if it went the other
4 way.

5 Q. Okay. I may have misheard you, but I thought you said
6 on direct examination that you preferred the cash, that's
7 why you cashed checks, right?

8 A. I said that I preferred to get cash over checks.

9 Q. Okay. And when you moved to Florida in 2001, you didn't
10 have any customers set up down there at that time, right?

11 A. Not initially, no.

12 Q. So Mr. Driscoll would have to send you cash, right?

13 A. If I needed cash, I guess he did, but I don't recall him
14 sending me cash. He would meet with Todd.

15 Q. Okay. Did you have a Federal Express account number of
16 your own?

17 A. I believe I did for a short time.

18 Q. All right. And if Mr. Driscoll testified that he sent
19 cash down to you in Florida, that would be inconsistent with
20 your testimony here today?

21 A. No. He may have sent me down cash. I just don't recall
22 right now that he did.

23 Q. Okay. Well, would you agree with me that your customers
24 lost more than they won, right?

25 A. Probably so.

1 Q. That's how you got paid, right?

2 A. Yeah.

3 Q. And for the most part, at least when your commission was
4 up to 50 percent, every time Mr. Driscoll met with Mr. Lyons
5 to pay him money, there was a similar amount of money, an
6 identical amount of money that you could stick in your
7 pocket, correct?

8 A. Under perfect situation, but I was always behind because
9 customers weren't paying, customers would not pay, so
10 most -- there was a long time where I didn't have any
11 commissions for a very long time.

12 Q. You were in makeup for a period of time?

13 A. Not only makeup, but then when you'd have somebody where
14 you actually made a commission but the guy didn't pay, you
15 would then have to work that off, so there wasn't any money
16 to take a commission from, and that happened very often.

17 Q. You still made very good money at this, right?

18 A. No, not always. Sometimes there was 24, 25 weeks one
19 time when nothing came in, it went the other way.

20 Q. Then there were times where you'd make several hundred
21 thousand dollars in a year, right?

22 A. I never figured or kept a track of exactly what money I
23 made.

24 Q. I mean, there was a reason for that, right?

25 A. I just didn't do the bookkeeping on it.

1 Q. And you didn't pay tax on it, right?

2 A. Right, that's true.

3 Q. Why keep track of it if you're not going to pay tax on
4 it, right?

5 A. Yes.

6 Q. So, with respect to the number of occasions that
7 Mr. Driscoll would meet up with Mr. Lyons and give him cash,
8 what would happen physically to your portion of the
9 commissions if it wasn't being sent to Florida?

10 A. Tom would hold it.

11 Q. How much money would Tom hold?

12 A. It wasn't a lot of money, and there's no way of me
13 telling you, giving you a specific amount, I could never
14 come up with that.

15 MR. HORSTMANN: Could I have a moment, your Honor?

16 Q. You were Agent 400, right?

17 A. Yes.

18 Q. Were you aware that Mr. Lyons' home was raided by the
19 State Police in 2006?

20 A. No, I was not.

21 Q. Were you aware that his ledgers regarding what he
22 received from various agents was taken at that time?

23 A. No, I was not.

24 Q. Am I telling you for the first time today?

25 A. I've never heard, yes, you are.

1 Q. Okay. Would you agree that Mr. Lyons' role with respect
2 to SOS was as a runner?

3 A. That was the title, yes.

4 Q. Okay. He would meet with Mr. Driscoll and prior to
5 Mr. Driscoll yourself and other agents and collect money on
6 an agreed upon basis, right?

7 A. Yes.

8 Q. All right. Showing you what's in evidence as
9 Exhibit 20, I'd just ask if you generally recognize what's
10 depicted on that page?

11 A. What is your question regarding this?

12 Q. Does this look familiar to you?

13 A. No.

14 Q. All right. Did you keep track of records that were
15 received -- did you keep track of money that came in or went
16 out with respect to your betters?

17 A. No.

18 Q. You didn't keep any track of it?

19 A. Oh, I had a record of what mine probably did, yes.

20 Q. Okay.

21 A. But I don't recognize this.

22 Q. If I were to represent to you these are the records that
23 were taken from Mr. Lyons' home, do you see your better
24 number on that page?

25 A. Is it the bottom right? It's kind of scribbled. Yes, I

1 do.

2 Q. And assuming what you've already said that Mr. Lyons was
3 the runner and he would collect money from various agents,
4 it appears as if Mr. Lyons took in \$30,000 from you or
5 Mr. Driscoll on this date, October 18th of whatever year
6 this is, correct?

7 A. If that's the way he's got it written, that's 30,000
8 coming to him or coming to me?

9 Q. Well, since he's keeping records, I'd ask you to assume
10 that 30,000 in means to him, to SOS?

11 A. Well, I mean, I can't answer that, sir, you'd have to
12 ask Todd. It's his records. I really don't know.

13 Q. If Mr. Driscoll testified that when he gave Todd money,
14 it was he would hold back whatever portion you told him was
15 either your commission or his commission for his betters,
16 what would it mean if Mr. Driscoll gave Todd \$30,000?

17 A. If Mr. Driscoll gave \$30,000, it would mean that that's
18 what we owed SOS is \$30,000.

19 Q. All right. It was a good day for you, right?

20 A. Again, sir, it depends. It could be a terrible day for
21 me. I can't answer that. No matter how many times you ask
22 me, I could have had ten guys that didn't pay me, and I
23 still owed the office a lot more than that which represented
24 my commissions.

25 Q. You weren't an agent for SOS for 12 years because you

1 had a lot of bad days, were you?

2 A. I made money, but I gambled a lot away of my own money
3 as well so some weeks I was my own best customer, and that
4 really isn't a good thing to do.

5 Q. Okay. Let me ask you another question. If the records
6 for one of these years between 1997 and 2006 show that you
7 paid Mr. Lyons \$300,000 in cash during that year, how would
8 that cash have gotten to you? How would your portion of
9 those commissions have gotten to you?

10 A. That whole 300,000, if in fact that was accurate, would
11 have been collected over whatever the term or the time
12 period was from the gamblers and given to Todd.

13 Q. I'm asking you to assume that that amount was given to
14 Todd.

15 A. Yes.

16 Q. That means that a portion of that was your commissions,
17 right?

18 A. Generally speaking, correct.

19 Q. How did that get to you?

20 A. I would take it and I would hold onto that portion.

21 Q. How would you physically get it?

22 A. From the gamblers.

23 Q. Okay. I'm talking about the point in time that you
24 moved to Florida, you've testified that -- you've testified
25 that Mr. Driscoll would send you Federal Expresses

1 infrequently, right?

2 A. Yes.

3 Q. I'm wondering if there's another method by which
4 Mr. Driscoll would transfer cash to you?

5 A. He would physically give it to me. I'd come up to
6 Boston a couple times a year and maybe he would give me
7 money then or something like that so there was a few
8 different ways.

9 Q. All right. So, you had the ability to move the cash
10 that you were receiving as commissions around by other
11 methods other than Federal Express, right?

12 A. Yes, I saw Mr. Driscoll, and that's another method.

13 Q. Okay. You needed the cash down in Florida to pay your
14 betters when they won, right?

15 A. Sometimes maybe I did.

16 Q. Okay. You never got cash back from SOS in Antigua,
17 right?

18 A. No, physically Antigua never sent me cash.

19 Q. So it would have to come from Massachusetts, right?

20 A. Correct.

21 THE COURT: How is your timing going?

22 MR. HORSTMANN: Probably have another 5, 10
23 minutes.

24 THE COURT: Fine.

25 Q. With respect to the period of time that -- well, the

1 period of time that your commissions were 15 to 20 percent,
2 that was only in the beginning, correct?

3 A. It was the beginning.

4 Q. All right. And you said it gradually increased to 50
5 percent by the time that -- by the year 2000s, right?

6 A. Right, by the end, yes.

7 Q. And the end was 2010, right?

8 A. Yes.

9 Q. And if you had not been visited by IRS agents in
10 February of 2010, you'd still be an agent for SOS if they
11 were still in business, right?

12 A. Possibly, yes.

13 Q. Okay. And it's not as if -- it's not as if you stopped
14 doing business with SOS with any reason other than you were
15 visited by law enforcement authorities, right?

16 A. Right.

17 Q. And you've been given -- you have an agreement with the
18 government about your testimony here today, right?

19 A. Yes.

20 Q. And you had an agreement with the government about your
21 grand jury testimony back in March of 2010, right?

22 A. Yes.

23 Q. And that agreement is that anything you say can't be
24 used against you except if you perjure yourself, right?

25 A. Right.

1 Q. How often would you use the website to track your
2 individual customers?

3 A. Depending on the time of year, sometimes every day.

4 Q. Okay. And you testified that you remember receiving
5 various promotional materials from SOS from time to time
6 regarding proposition bets on the Super Bowl and things like
7 that, right?

8 A. Yes, there was a proposition page that Bob did every
9 year, and they shipped them out, and it was five, six, seven
10 pages long.

11 Q. Did you help design that at all?

12 A. No.

13 Q. Did you have any role in that at all?

14 A. None.

15 Q. You would hand that out to your customers, and that was
16 it?

17 A. Yes.

18 Q. And the website also had similar offerings for
19 customers, proposition bets and the like?

20 A. The same thing that was -- the brochures that were
21 created were also available on the web.

22 Q. Okay. And the website offered bets on other things,
23 too, correct, not just sports-related activities?

24 A. We'd do politics, if there was a big Presidential race,
25 there would be other things.

1 Q. Oscars, correct?

2 A. Yes.

3 Q. And your customers could play in the casino, correct?

4 A. Yes.

5 Q. And did in fact your money lose money in the casino?

6 A. The video casino, yes.

7 Q. And you would receive a commission on that as well?

8 A. Yes.

9 Q. And once again there's no way to distinguish in the
10 checks that have been offered into evidence on your direct
11 examination what portions of those losses are attributable
12 to sports bets or Internet gambling bets or telephone or
13 website?

14 A. There's no way.

15 Q. Okay.

16 MR. HORSTMANN: May I just have a moment, your
17 Honor? No further questions, your Honor.

18 CROSS-EXAMINATION

19 BY MR. NURIK:

20 Q. Good afternoon. My name is Marc Nurik. I represent
21 Dan Eremian. Mr. Olsen, what percentage of the losses that
22 your betters had was uncollected?

23 A. I couldn't come up with an actual percentage.

24 Q. Well, it certainly wasn't more than 25 percent, was
25 it?

1 A. When it was uncollectible, there was usually big
2 numbers, so I just don't know.

3 Q. Well, you were in business to do this, right?

4 A. Yeah.

5 Q. This is how you were making money, right?

6 A. But it's an illegal business, it's not like I have an
7 accountant that is keeping track of all my numbers coming in
8 and out, sir.

9 Q. Well, you wouldn't be doing it if you're not making
10 money, right?

11 A. Well, you know what, there were times when I looked back
12 when I was losing, so when you get caught up as a gambler
13 and you're gambling away a lot of your own winnings or
14 earnings in this case, you just kind of get caught up the
15 way the gamblers do.

16 Q. And the way the system worked, when you lost money, you
17 didn't actually lose all of it because you actually got your
18 commission on that money, right?

19 A. Well put, sir, and that's what made us bet even more as
20 agents because we'd say, gee, I didn't lose 1,000, I only
21 lost 600 this week.

22 MR. NURIK: May I approach the witness?

23 THE COURT: Yes.

24 MR. NURIK: Can I have this marked?

25 THE COURT: Did you show them what it is?

1 MR. NURIK: They know what it is.

2 Q. You received information from SOS as to what your
3 customers weekly losses were, correct?

4 A. Yes.

5 Q. You got like a B report, right?

6 A. We had a fact sheet at the beginning of what we would
7 win or lose.

8 Q. Let me show you this. Does that appear to be one of
9 those sheets?

10 A. Yes.

11 Q. Are you Agent 400?

12 A. Yes.

13 Q. Okay. The people under that are other people who were
14 under you, the other numbers?

15 A. Yes.

16 Q. Okay.

17 MR. NURIK: I offer it into evidence, your Honor.

18 MR. FISHER: No objection.

19 (Report was admitted into evidence as Government
20 Exhibit No. 320.)

21 THE COURT: What did you call it a B report?

22 MR. NURIK: B report.

23 THE COURT: What do you understand that to mean?

24 THE WITNESS: I've never heard that term until
25 now.

1 Q. This is a report you received. By the way, you're
2 Agent 400, correct?

3 A. Yes.

4 Q. On the bottom, it's got a win to loss, in other words,
5 your customers to date as of 22d of December, '09 lost
6 \$2,947,576, correct?

7 A. That's what that's saying. It's funny because Bob would
8 never put those on, and he said anybody that keeps records,
9 Bob would say do not keep year-to-date records, don't ever
10 allow those to be kept.

11 Q. Are you telling me that your customers didn't lose
12 2,947,000?

13 A. I'm telling you I don't know that, and it's funny that
14 you're showing me that because Bob was very adamant about
15 not having a year-to-date column.

16 Q. You knew before coming here today, the government told
17 you that I would show you this, right?

18 A. I didn't know for certain.

19 Q. But you knew that I would, right?

20 A. I heard that there was a chance.

21 Q. And they told you, the government told you, correct?

22 A. I heard that.

23 Q. Yes. Now, the fact of the matter is you bought a home
24 in Boca Raton with the money you made from gambling,
25 correct?

1 A. That's not accurate, no.

2 Q. The government hasn't asked you how you paid for your
3 home in Boca Raton?

4 A. The government hasn't asked me how I paid for my house,
5 no.

6 Q. The government hasn't asked you how much money you
7 made?

8 A. No, they haven't. I'm sure they have the records if
9 they want to look at them.

10 Q. Well, the fact is you didn't keep any records, right?

11 A. I didn't keep records of the gambling portion, no, I
12 didn't.

13 Q. So you got no records of the cash you kept?

14 A. No.

15 Q. They'd have no way of knowing without you telling them
16 the truth, correct?

17 A. That's right.

18 Q. Everything here depends on your word as a truthful man,
19 correct?

20 A. Yes.

21 Q. Okay. Let's talk about that. Do you remember
22 David Laird?

23 A. I know the name.

24 Q. You know the name. Now, you told the ladies and
25 gentlemen of the jury that he only bet with you for a month,

1 correct?

2 A. That's my recollection, sir, yes.

3 Q. Would it surprise you to learn that Mr. Laird testified
4 that for months he was sending checks down to you?

5 A. Nothing would surprise me of what Mr. Laird said.

6 Q. Now, the fact of the matter is before you actually
7 testified in the grand jury, in fact, before you actually
8 saw Mr. Eremian in St. Kitts, you knew that the government
9 was threatening to charge you with extortion, correct?

10 A. I didn't know that at the time. I found out about that
11 while I was in St. Kitts.

12 Q. Okay. While in St. Kitts you found out that the
13 government was threatening to charge you with extortion
14 because they were claiming you had made threats against
15 Mr. Laird, correct?

16 A. There was rumor of that, yes.

17 Q. And in fact you talked to Bob Eremian about that?

18 A. Bob brought it up to me. I didn't even know about it.

19 Q. Well, you certainly knew about it when you went in front
20 of the grand jury with Mr. Wyshak?

21 A. It came out at that point, yes.

22 Q. Because he confronted you on that, correct?

23 A. But when --

24 Q. Just answer the question yes or no, did he confront you
25 on it?

1 A. I'm sorry.

2 Q. Did he confront you on it, Mr. Wyshak?

3 A. Yes.

4 Q. And isn't it a fact that you deny threatening
5 David Laird, correct?

6 A. That's correct.

7 Q. And you deny here in front of the ladies and gentlemen
8 of the jury of threatening David Laird, correct, under oath,
9 correct?

10 A. That's right.

11 Q. Now, isn't it a fact that David Laird was told by you
12 that you ran the entire east coast operation of SOS?

13 A. That's absurd, I would never say that.

14 Q. And isn't it a fact that you told David Laird that you
15 had many Chucks, meaning Chuck Collura under you?

16 A. No.

17 Q. And isn't it a fact you told Mr. Laird if he didn't pay
18 you were going to send some people over to break his legs?

19 A. Absolutely not.

20 Q. So if Mr. Laird testified to that under oath here that
21 would be untrue?

22 A. That's correct.

23 Q. It's your word over Mr. Laird?

24 A. Yes, Mr. Laird said to me right off in the beginning of
25 our conversation that he had people, friends in the FBI.

1 Q. Isn't it a fact that Mr. Laird said to you to get you to
2 stop calling him that he secretly taped the conversation and
3 that if you didn't stop calling him, he was going to turn it
4 over to the FBI, didn't he say that to you?

5 A. On the first phone conversation before I even started
6 talking to him, he started getting loud with me saying that
7 he was going to go to the FBI or the U.S. Attorney's Office
8 or somebody.

9 Q. Yes or no, did Mr. Laird tell you that he secretly taped
10 the conversation which you threatened him?

11 A. I don't recall him saying that to me.

12 Q. Are you saying it didn't happen or you just don't
13 remember?

14 A. I don't recall Mr. Laird saying that to me.

15 Q. Meaning he didn't? You're under oath, sir, did he say
16 it or not?

17 A. I don't remember him saying it. If he said it, I don't
18 recall it.

19 Q. So you're not denying he said it?

20 MR. FISHER: Objection, your Honor. Asked and
21 answered.

22 THE COURT: Sustained.

23 Q. Well, the fact of the matter is when you denied
24 threatening Mr. Laird in the grand jury, Mr. Wyshak
25 confronted you and told you you had immunity but not

1 immunity for lying in front of the grand jury, correct?

2 A. Correct.

3 Q. And that if you lied about it, you could be prosecuted,
4 right?

5 A. That's I guess how the immunity system works.

6 Q. Well, we had Mr. Laird testify here about a week, week
7 and a half ago. Has the government threatened to prosecute
8 you?

9 MR. FISHER: Objection.

10 THE COURT: Sustained.

11 Q. Have you been threatened with prosecution?

12 MR. FISHER: Objection.

13 THE COURT: Sustained.

14 Q. In fact, as you sit here now today, you don't expect to
15 be prosecuted for anything, do you?

16 MR. FISHER: Objection, your Honor.

17 THE COURT: Overruled.

18 Q. Correct?

19 A. What's the question?

20 Q. As you sit here today, you don't expect to be prosecuted
21 for anything, do you?

22 A. To the best of my knowledge, I don't believe so.

23 Q. And the government is not asking you to pay any money
24 back, correct?

25 A. No.

1 Q. You have to speak up.

2 A. I said no, sir.

3 Q. Now, it's your testimony that you had problems with
4 David Laird putting the SOS gambling losses on the bottom of
5 the checks, which is Exhibit 303. Do you see Defendant's
6 Exhibit 303, right?

7 A. Yes.

8 Q. And the reason is because you didn't want to take that
9 risk of having that information floating around in your
10 account, correct?

11 A. Correct.

12 Q. Because you were taking very big risks in having all of
13 this money flowing through your account, correct?

14 A. Correct.

15 Q. You had all these wires, you had all these checks,
16 correct?

17 A. Yes.

18 Q. And it's your testimony to the ladies and gentlemen of
19 the jury that you were doing this for only 5 percent of the
20 take?

21 A. Can you explain that better?

22 Q. Well, did you say to the ladies and gentlemen of the
23 jury that you were paying 25 percent to your subagent and
24 you were only getting 30, that means 5 percent you're
25 getting?

1 A. I said at one point my subagents were getting 15 to 20,
2 and I was getting a higher percentage than that.

3 Q. That's not what you said, is it, you actually said that
4 you were paying 25 percent, and you were getting 30, so for
5 5 percent, you were taking all that risk; is that your
6 testimony?

7 MR. FISHER: Objection, your Honor, time frame.

8 THE COURT: Well, I'll let him specify.

9 A. You know, I was involved for 15 years or more. I can't
10 answer the exact time period of what my percentage was and
11 what I was paying them.

12 Q. Well, you're here today under oath to testify in a trial
13 and give information that you know, and you're telling me
14 you can't tell us what percentages you were getting?

15 MR. FISHER: Objection, your Honor.

16 THE COURT: Sustained.

17 Q. Well, let me ask you this: If you look at the bottom of
18 this sheet, you happen to notice that RA 400 is getting 55
19 percent?

20 A. I don't recall ever being at 55 percent. Certainly when
21 those sheets were being done, I can promise you I wasn't
22 even at probably 35 percent.

23 Q. And that we're relying on your word because you have
24 nothing else to support it?

25 A. Those sheets are faxed to us. During the later years

1 when I was earning 50 percent, which is why I find it funny
2 that you're presenting this sheet, it could have been taking
3 the word of Bob, who's a fugitive down in Antigua that he
4 created this.

5 MR. NURIK: Judge, instruct the jury, please.

6 MR. WYSHAK: He opened the door, your Honor.

7 THE COURT: It's irrelevant at this point where
8 Mr. Eremian is and why, but I'll strike that portion of his
9 answer.

10 Q. The fact of the matter is that right now as you sit here
11 you can't tell us how much percentage you got as to any
12 particular date or you won't tell us, right?

13 A. I can tell you what I remember.

14 Q. You mean what you remember, what you conveniently
15 remember?

16 MR. FISHER: Objection, your Honor.

17 THE COURT: Sustained, sustained.

18 Q. Now, you also told us that with respect to Mr. Laird's
19 losses that he didn't pay that you got stuck paying that,
20 correct?

21 A. Yes, sir.

22 Q. But if we are to believe your testimony, Mr. Collura
23 also got a significant percentage of that, right?

24 A. Mr. Collura would have gotten a percentage of whatever
25 losses were paid in, yes.

1 Q. So Mr. Collura would also have been responsible for
2 paying the makeup, correct?

3 A. In a way, but the office didn't even know who
4 Mr. Collura was, so it ultimately fell on my shoulders.

5 Q. And you collected it for Mr. Collura?

6 A. I collected whatever monies he got. He didn't get
7 anything at the end from Mr. Laird.

8 Q. But Mr. Collura got a percentage under you, so that
9 meant Mr. Collura was on makeup to under your percentage,
10 correct?

11 A. Under -- yes, he would be.

12 Q. And that means Mr. Collura was responsible to you,
13 correct?

14 A. Right, but if the money wasn't there, I wasn't getting
15 it from Mr. Collura as well.

16 Q. You got it from some other commission that Mr. Collura
17 collected on that now Collura owed you, correct?

18 A. But ultimately we never got money from David Laird,
19 that's correct.

20 Q. But other people, correct?

21 A. If there were other people, yes.

22 Q. Are you saying there weren't other people?

23 A. No, I'm saying that if there was other people there,
24 then we would have gotten it if they had lost money.

25 Q. Right. And there were other people who lost money?

1 A. Over time then Mr. Laird's debt would have been wiped
2 out by our commissions.

3 Q. In other words, not just your commissions but
4 Mr. Collura's commissions?

5 A. Correct.

6 Q. So, in fact, when you told the ladies and gentlemen of
7 the jury that you were responsible and that it came on your
8 shoulders, the truth is actually it came more on
9 Mr. Collura's shoulders, right?

10 A. It's splitting hairs. I mean, Bob wouldn't call -- Bob
11 wouldn't call Chuck Collura and saying what's going on, he'd
12 call me.

13 Q. But you would tell Mr. Collura actually you owe me from
14 this next better who lost money, right?

15 A. If Chuck had other people, then we would work out
16 whatever monies that needed to be done.

17 Q. And Chuck had other people?

18 A. And Chuck had other people.

19 Q. In fact, there are approximately 62 names on this list
20 under your number, correct?

21 A. I can't read them, but if that's what you say.

22 Q. Does that sound about right?

23 A. It's possible.

24 Q. And that means subagents, betters, and it's your
25 testimony that after all of that and all of these years that

1 you've been doing it that you really basically didn't make
2 any money?

3 A. I didn't say that. I said I made money, but when you
4 look back at it and when you look at what you had to go
5 through and all the hassle that you would have and all the
6 gambling, the more gambling that you would eventually do, it
7 wasn't as it seems.

8 Q. Okay. Now, your testimony that you actually came to
9 give Dan Eremian money a couple of times or a handful of
10 times in Florida, you don't have any support for that other
11 than your word, correct?

12 A. I guess not, no, what we did was illegal. I wouldn't be
13 going over there getting a receipt from Danny for the money
14 I dropped off.

15 Q. You didn't bring anybody with you?

16 A. No, I wouldn't do that.

17 Q. You didn't have any witnesses, we'd have to rely on your
18 word, correct?

19 A. Correct.

20 Q. And all those years you're working in Florida, you're
21 never giving any money or having any financial dealings with
22 Mr. Eremian, correct, Daniel Eremian up until this point
23 that you tell us, correct?

24 A. None. Early on it would be social, go to his
25 restaurant.

1 Q. And, in fact, you were told by Richard Sullivan, hey,
2 Bobby has a brother in Florida, Danny, who owns a
3 restaurant, why don't you go see it, you took your family
4 there?

5 A. Exactly.

6 Q. You would go there every couple of weeks?

7 A. Exactly.

8 Q. And in all those years you're not settling up with
9 Dan Eremian but, now you're telling the ladies and gentlemen
10 of the jury at the end of time now all of a sudden you're
11 giving money to Dan Eremian, correct?

12 A. That's what I said.

13 Q. And, in fact, you can't remember how much, right, can't
14 give us any dates, can you?

15 A. No.

16 Q. Can't give us anything other than your word that a
17 couple of times you gave money, right?

18 A. Yeah.

19 Q. And the same thing is true with your testimony about
20 that he said to you that he sent a better packing, right?

21 A. Pardon me.

22 Q. That he closed down a better because he was making too
23 much money, right?

24 A. What's the question?

25 Q. We have just your word to rely on that, nobody else was

1 there, right?

2 A. Correct.

3 Q. And, in fact, you never even told the grand jury about
4 that, did you?

5 A. If it's not in there, I guess I didn't.

6 MR. NURIK: Can I have one moment, your Honor?
7 Nothing further, thank you.

8 THE COURT: Do you need any?

9 MR. FISHER: I do, just briefly, if I may.

10 REDIRECT EXAMINATION BY MR. FISHER:

11 Q. Now, Mr. Olsen, you were asked on cross-examination
12 about the phone Internet breakdown for betters. You,
13 yourself, spent a considerable of time on the phone with
14 SOS, correct?

15 A. Yes, I did.

16 Q. That was over the entire time frame you were involved
17 with them?

18 A. Yes, sir.

19 Q. And who were you calling and talking to down at SOS in
20 Antigua?

21 A. The majority of time would be Richard Sullivan.

22 Q. What were you calling to talk to him about?

23 A. Obviously at the beginning would be gambling and what
24 was owed and what was going on, and eventually we talked
25 about all types of things, I mean --

1 Q. But for the most part you were calling Antigua using the
2 800 number to talk about your involvement with SOS,
3 correct?

4 A. That would be the reason for me calling, yes.

5 Q. I'd like to show you what's been marked Exhibit 61,
6 specifically 61G. I'd like to show you that two-page
7 document. Do you recognize your name on that document?

8 A. Yeah, I see it right at the top.

9 Q. And you're at the top because you're Agent 400,
10 correct?

11 A. Yes, sir.

12 Q. And do you recognize the names underneath your name?

13 A. Some of them I don't.

14 Q. How about the ones you do?

15 A. I'd certainly recognize some of them.

16 Q. And some of them were your betters, correct?

17 A. Yeah.

18 Q. And, in fact, Butch from the Cape is on there,
19 correct?

20 A. Yes, right at the top.

21 Q. And you testified he was a better, correct?

22 A. Yeah.

23 Q. And the other names you recognize on there, those are
24 betters, correct?

25 A. Yeah.

1 Q. For you?

2 A. Some of them I definitely don't recognize at all.

3 Q. But the ones you do recognize, do you recognize them as
4 betters, correct?

5 A. Absolutely.

6 Q. And you were in fact Agent 400, correct?

7 A. Yes.

8 Q. I'd like to put up what's been marked Exhibit 320 on the
9 overhead. This is the win-loss or the B printout for
10 whatever that means?

11 A. Yes.

12 Q. And you were, you testified you were Agent 400,
13 correct?

14 A. Correct.

15 Q. And that's you at the top, right, 400?

16 A. Yes.

17 Q. And would that be your betting activity going cross?

18 A. For that week, yeah.

19 Q. All right. I'd like to draw your attention to the
20 win-loss total for this. It looks like you, yourself, lost
21 over a million dollars, correct?

22 A. That's what it's showing.

23 Q. In fact, you were a heavy better, correct?

24 A. Yes.

25 Q. So, approximately a little more than a third of the

1 overall losses are yours, correct?

2 A. That's what it's showing.

3 Q. Is this the first time you saw a printout like this in
4 terms of the year-to-date or the term-to-date losses?

5 A. Absolutely the first and only time, and I'm looking at
6 the year at the top, it says '09.

7 Q. I'll show it to you right now. Through December 22d of
8 '09?

9 A. Yeah.

10 Q. Correct?

11 A. But what does it say when it began?

12 Q. I don't believe it does, but it's a distribution report
13 as it says there again, Exhibit 320. You were never given
14 this, correct, from SOS?

15 A. We were given a sheet like that every Monday morning it
16 was faxed to us, but that was back in the '90s and maybe
17 early 2000s, and then that was available on the Internet to
18 us.

19 Q. But how about this last column here, this win-loss for
20 your term?

21 A. Like I got to tell you, Bob was extremely adamant about
22 not having win-loss year-to-date numbers ever available, and
23 he said if you keep any type of records, make sure that you
24 do not keep any year-to-date.

25 Q. In fact, you never saw a year-to-date before today,

1 correct?

2 A. Before today I never did.

3 Q. And the government never showed you a year-to-date,
4 correct?

5 A. No, they never did.

6 Q. And they never showed you this document, correct?

7 A. No, they never did.

8 Q. Fair to say that almost every one of your betters lost
9 money, correct?

10 A. That's what it's showing there.

11 Q. It's all negative, correct?

12 A. Yeah.

13 Q. And you were the biggest loser, correct?

14 A. Without looking at it, I can't imagine there's anybody
15 any bigger, no.

16 Q. Now, you also stated that at the time there were back in
17 the what, late '90s, there were advertisements regarding
18 offshore betting, correct?

19 A. Yes, sir.

20 Q. And it's your memory those were post-up sites,
21 correct?

22 A. Absolutely.

23 Q. You were also shown -- just one last question, you were
24 shown the exhibit that Mr. Laird sent you, and it was the
25 checks that said gambling losses, correct?

1 A. Yes.

2 Q. And you were asked why you didn't put that through your
3 account, correct; do you remember that?

4 A. Yes.

5 Q. That check was made out to Benevolence Funding,
6 correct?

7 A. Yes, it was.

8 Q. So you couldn't have put that through your account,
9 right?

10 A. No.

11 THE COURT: All right. Thank you. Anything else,
12 Mr. Nurik?

13 MR. NURIK: Let me go first.

14 RECROSS-EXAMINATION

15 BY MR. NURIK:

16 Q. In fact, the million dollars that's listed in this
17 column for you which you said you were the biggest loser,
18 this number actually doesn't just cover you, it covers
19 somebody else, doesn't it?

20 A. It covers somebody else?

21 Q. Yes.

22 A. I've never seen that figure before.

23 Q. Let me ask you this way. In fact, you had somebody that
24 was betting under you that you didn't disclose who he was
25 because he was a famous person, a sports personality who's

1 on TV, correct?

2 A. That's not true.

3 Q. That's not true?

4 A. No.

5 Q. That's not true? You don't have somebody that actually
6 was betting with you, I don't want to embarrass him, but
7 I'll mention his name. Do you want me to mention his
8 name?

9 THE COURT: I'll tell you what, do you know what
10 he's referring to?

11 THE WITNESS: I have a very good idea what he's
12 referring to, but the person that he's referring to has
13 nothing to do with SOS, has nothing -- never have I ever
14 talked to him about SOS, never did he have an 800 number for
15 them, nothing like that.

16 Q. He bet with other people is what you're saying?

17 A. I played cards with him, but that's it.

18 Q. And he didn't bet with other betting services?

19 A. Not to my knowledge.

20 Q. If we called him, he wouldn't testify that he bet with
21 other betting services?

22 MR. FISHER: Objection.

23 THE COURT: Excuse me, objection sustained.

24 RECROSS-EXAMINATION

25 BY MR. HORSTMANN:

1 Q. That million dollars that's referenced on the B chart we
2 just saw, you would earn commissions on that, right?

3 A. Yes.

4 Q. So you wouldn't have lost a million dollars, you would
5 have earned commissions back for whatever your percentage
6 was over a period of time, right?

7 A. Yes.

8 Q. So you wouldn't have lost a million dollars?

9 A. No, I would have lost less.

10 Q. And your testimony is that Bob Eremian was extremely
11 adamant about not posting or recording any year-to-date
12 figures, correct?

13 A. Yes.

14 Q. All right. And you're familiar with the website because
15 you would log onto the website from time to time to track
16 your own betters, right?

17 A. Exactly.

18 Q. And is it -- you could track your betters' year-to-date
19 winnings and losses, correct, right on the website?

20 A. I don't recall that if you could or could not do that.
21 I don't know that.

22 Q. So you weren't able to use that technology?

23 A. If memory serves me right, I think you could only go
24 back two or three weeks.

25 Q. Okay.

1 A. To look at what they did, I believe that's what it
2 was.

3 Q. All right. So, well, showing you what's in evidence as
4 Exhibit 30, page 11, do you recognize this report?

5 A. It looks like the web sheet, one of the pages from the
6 website.

7 Q. Okay. Is this what you would see when you'd log onto
8 the SOS website and look up your agent account for the
9 week?

10 A. You know, it's been a couple years, but I guess that's
11 probably, it looks somewhat familiar, yeah.

12 Q. All right. This particular sheet is February 3rd of
13 2009, correct?

14 A. Yes.

15 Q. So right after the Super Bowl in '09?

16 A. Apparently.

17 Q. And this appears to be Agent 500s or 900s, one of them,
18 correct?

19 A. One of them, I guess, I don't know.

20 Q. And if you scroll down, you can track various bets for
21 balance at the end of the week, correct, BOW is end of week
22 balance?

23 A. I can't tell from that, so I can't really say.

24 Q. I'm sorry, BOW?

25 A. What's BOW?

1 Q. I'm asking you.

2 A. I don't know.

3 Q. Okay. And balance, you know what a balance is, right?

4 A. Yeah.

5 Q. And if you scroll down to the final page, it gives you
6 historical figures, correct?

7 A. I really don't know. It's very confusing to me. This,
8 I don't, EOW, I don't know what it means, EOW red, I don't
9 know what that means.

10 Q. Okay. Would it help your memory if I suggested that EOW
11 is end of week and BOW, beginning of week?

12 A. It would make sense based on the initials, but it
13 doesn't help me.

14 Q. But beginning of week still had a balance, right, so
15 it's something that tracks it over a period of time, right,
16 you've got a historical balance there?

17 A. But it doesn't -- if it's just for a week or for a
18 month, I really don't know.

19 THE COURT: He's guessing. He doesn't know.

20 Q. Your testimony is Bob wouldn't put it out there,
21 right?

22 A. Absolutely that's my testimony.

23 MR. HORSTMANN: All right. No further
24 questions.

25 THE COURT: Thank you. You can leave.

1 MR. FISHER: We recall Mr. Craffey.

2 THE COURT: I'm sort of wondering whether it's --

3 MR. FISHER: I'm not sure, if you have a hearing
4 at four.

5 THE COURT: I have a hearing at four. Can you
6 finish your direct by then?

7 MR. FISHER: I should be able to.

8 THE COURT: All right. Then there's going to be
9 cross, so we'll probably finish at five of because I need to
10 take a break in between.

11 THE CLERK: Sir, you're still under oath.

12 THE WITNESS: Thank you.

13 THE COURT: What's your name for the record?

14 THE WITNESS: I'm sorry, Michael Craffey,
15 C-r-a-f-f-e-y.

16 THE COURT: Thank you, you're still under oath,
17 sir. We've seen so many folks, and I know this has been a
18 hiatus, and I'm sorry.

19 MR. FISHER: I'm going to try to get us back where
20 we were, if I can.

21 MICHAEL CRAFTY, RESUMED

22 DIRECT EXAMINATION, CONTINUED BY MR. FISHER:

23 Q. Showing you Exhibit 201, 202, those are already in
24 evidence. You can reacquaint yourself with those and tell
25 us if you recognize what those are. Do you remember what

1 those are, Mr. Craffey?

2 A. Yes, I do.

3 Q. What are those?

4 A. These are tax returns which were prepared for Todd
5 Lyons.

6 Q. I think when we left off last time, I was showing you
7 what has been marked as Exhibit 178. Now, Mr. Craffey, you
8 testified last time last week that you would typically send
9 organizers out to your clients?

10 A. Correct.

11 Q. When would those organizers typically go out?

12 A. January.

13 Q. Do you remember when in January?

14 A. Normally the first two weeks of January.

15 Q. And that's when you give them out to your clients,
16 correct?

17 A. Correct.

18 Q. So in January of '06, you'd be sending out the organizer
19 for the tax year 2005, correct?

20 A. Correct.

21 Q. I'd like to show you what's been marked Government
22 Exhibit 178.

23 A. Yes, you had showed me this last time.

24 Q. I think we left off last time with that. Do you
25 recognize what that is?

1 A. This is the tax return, a copy of the 2005 tax return
2 which I sent back to Todd from my records along with the
3 organizer, which I would have sent him which I used to
4 prepare the tax return with.

5 Q. What was reported to you for earnings for Mr. Lyons'
6 2005 tax return for which you would have received it back
7 some time in 2006?

8 A. There was interest of about \$500, some consulting income
9 on a net basis of about \$280 and then gambling earnings of
10 \$96,500.

11 Q. There's a flagged page there. Can you tell us what the
12 first flagged page is?

13 A. The first flagged page in here is the cover page from
14 his organizer which he returned to me.

15 Q. And is there also a page in there which he signs?

16 A. That's the organizer.

17 Q. And did that come back to you signed?

18 A. It came back to me with a signature on it, correct.

19 Q. And you took that information and filed Mr. Lyons' tax
20 return, correct?

21 A. Correct.

22 MR. FISHER: Your Honor, the government offers the
23 2005 organizer as Exhibit 178.

24 MR. HORSTMANN: No objection.

25 (2005 organizer was marked and admitted into

1 evidence as Government Exhibit No. 178.)

2 Q. Now, was that the first time that you had been dealing
3 with Mr. Lyons as a client that he reported gambling
4 proceeds?

5 A. Yes.

6 Q. And you sent that information onto the IRS, correct?

7 A. Correct.

8 Q. I'd like to show you what's been marked Exhibit 236. If
9 you wouldn't mind taking a look at that and tell us if you
10 recognize what that is?

11 A. This was a notice which Mr. Lyons received on his 2005
12 tax return which he sent to me.

13 Q. And what is the point of that notice?

14 A. The point of the notice, it was looking to increase his
15 tax liability by \$10,000.

16 Q. And that was a notice from the IRS, correct?

17 A. Correct.

18 Q. And what triggered that notice was the tax return you
19 sent in on his behalf, correct?

20 A. Correct.

21 Q. And it was for the 2005 tax year?

22 A. Correct.

23 Q. And you were given that notice, it was forwarded to you
24 from Mr. Lyons, correct?

25 A. Correct.

1 MR. FISHER: Your Honor, the government would move
2 to offer that into evidence, Exhibit 236, I believe.

3 THE COURT: All right.

4 (Notice from IRS was marked and admitted into
5 evidence as Government Exhibit No. 236.)

6 Q. Mr. Craffey, if you could explain what triggered that
7 notice from the IRS.

8 A. What triggered the notice was they looked for the
9 earnings reported on line I believe it was 23, and the IRS
10 wants to take the position that that was what was deemed as
11 self-employment income and charge him self-employment tax on
12 that earnings.

13 Q. And you advised Mr. Lyons on how to deal with this,
14 correct?

15 A. I requested from him a list of the places where he
16 gambled, and then I provided that list to the IRS.

17 Q. Mr. Craffey, I'm showing you Exhibit 237. Would you
18 take a look at those documents and tell us if you recognize
19 what those are.

20 A. Yes, this was my letter along with the list of earnings
21 which I sent to the IRS in response to the notice.

22 Q. So, Mr. Lyons did respond to your request for a
23 breakdown in what those gambling winnings were, correct?

24 A. Correct.

25 Q. And he forwarded you the list contained therein?

1 A. Correct.

2 Q. And you then forwarded it to the folks you were dealing
3 with at the IRS, correct?

4 A. Correct.

5 MR. FISHER: Your Honor, the government would move
6 237 into evidence.

7 MR. HORSTMANN: No objection.

8 THE COURT: All right.

9 (Response to the IRS was marked and admitted
10 into evidence as Government Exhibit No. 237.)

11 Q. If I could have the pertinent page of 237 up on the
12 screen. Now, Mr. Craffey, I'm showing you a document that
13 is contained in Government 237. Can you tell the jurors
14 what that is?

15 A. This is a -- I was required to based on the notice, we
16 needed to provide a list of the gambling activities. He
17 needed to provide a list of the gambling activities, and
18 these are the dates and location and the games and the
19 winnings which he had from his records that he provided to
20 me for 2005.

21 Q. And when this information was provided to you, was it
22 provided to you in this form, in this list?

23 A. Yes, it was.

24 Q. And are you the one that put the total down the
25 bottom?

1 A. Yes. There was a second page which he had totaled, but
2 I wanted to make it easier and have it one page, so I
3 totaled the bottom of the list.

4 Q. Now, did you also have any conversation with Mr. Lyons
5 about this process and particularly this list and his
6 gambling winnings?

7 A. My conversation when I received the notice back, I asked
8 him for a list of his gambling earnings and when they were,
9 where and how much so I could forward it to the IRS.

10 Q. And what information did he provide you in addition to
11 what is seen here on this list?

12 A. Nothing, all I needed was this list, and that's all that
13 was provided to me.

14 Q. Did he at any time tell you when he was going to
15 Mohegan Sun or Foxwoods?

16 A. No, he didn't tell me. I mean, it's on the list, so
17 there was no reason for me to ask him what was on the
18 list.

19 Q. He never told you the hours of the day he was
20 frequenting these establishments?

21 A. There was -- as part of it, there was one time I asked
22 him about what time of the day and how he earned this, and
23 he said he went between two and five in the morning, I at
24 the time there was a movie, I think it was called 21 out
25 there, I said, "Oh, you're doing the same thing as like on

1 21?" He said, "Yes."

2 Q. So after you forwarded this information to the IRS, what
3 happened with the matter in terms of the \$10,000
4 surcharge?

5 A. I got a closing notice, they settled the case and closed
6 out the notice.

7 Q. So he was not responsible for the \$10,000?

8 A. Correct.

9 Q. And why is that? Can you explain that to the jurors?

10 A. Because there are certain kinds of earnings that aren't
11 subject to self-employment tax, one of them is gambling
12 winnings, another, for example, would be if you were an
13 executor for an estate, that would be not subject to
14 self-employment earnings, but if you're what's deemed as a
15 trade or business, you would then be subject to
16 self-employment earnings.

17 Q. And then for tax year 2006, did Mr. Lyons then again
18 provide to you gambling winning information?

19 A. Yes.

20 Q. And what was that, if you remember?

21 A. I don't remember off the top of my head.

22 Q. Was it in the same range as the first, about \$80,000,
23 \$86,000?

24 A. Plus or minus, yes, somewhere in that range.

25 Q. Did he provide you with the list type of the winnings,

1 at least a breakdown of where he won?

2 A. No, he just provided it as a line item in his
3 organizer.

4 Q. So he would just tell you, you know, it was eighty
5 something thousand for the year, and you filed that,
6 correct?

7 A. Correct. He had two sources of gambling, he had the
8 gambling earnings, which are here, plus he also had earnings
9 from the Mass. Lottery, so he provided me the 1099Gs as
10 well.

11 Q. That was for the 2005. Was that also for 2006?

12 A. I believe he had earnings in 2006 as well.

13 Q. And what other income do you remember him reporting in
14 2006 other than gambling winnings?

15 A. Nothing material, maybe some small interest, and I think
16 he may have had some small consulting income. Off the top
17 of my head, I don't remember.

18 Q. And then again in 2007, again, did he report to you
19 further gambling winnings, approximately \$87,000?

20 A. I don't believe so. I think 2006 was the last return I
21 did for him, I believe. I would have to go back to my
22 records, but I believe the 2006 return in 2007 was the last
23 year I did it for him.

24 Q. It's fair to say after the 2005 tax year any following
25 tax years there were gambling winnings, correct?

1 A. Correct.

2 Q. And then you ceased your arrangement with Mr. Lyons,
3 correct?

4 A. Correct.

5 Q. What triggered you to do that?

6 MR. FISHER: I'll withdraw the question, your
7 Honor.

8 MR. HORSTMANN: Objection.

9 Q. Now, in explaining to you these gambling winnings, did
10 Mr. Lyons ever report to you that he was earning commissions
11 and/or a weekly paycheck from Sports Off Shore?

12 A. No.

13 Q. So, is it your testimony that in terms of the gambling
14 winnings in '05 and '06 that you reported to the IRS that
15 those winnings or earnings were from Mohegan Sun and
16 Foxwoods?

17 A. And from the Mass. lottery.

18 Q. That was \$10,000 a year, correct?

19 A. I'm not sure what year it was for, '06, but the return
20 you showed me, I believe it was for \$10,000 in that year.

21 MR. FISHER: Can I just have a moment, your Honor?
22 No further questions.

23 THE COURT: Thank you. I'll see you tomorrow.
24 Don't forget, tomorrow we're only going to one o'clock. You
25 can all go home and cook. All right.

1 (JURORS EXITED THE COURTROOM.)

2 THE COURT: I'll see counsel on scheduling.

3 (THE FOLLOWING OCCURRED AT SIDEBAR:)

4 MR. WYSHAK: Your Honor, just briefly on these
5 documents that Mr. Nurik is obviously getting from
6 Mr. Eremian in Antigua.

7 THE COURT: Let me just say for the record, you're
8 talking about what has been referred to as the B list, 320?

9 MR. WYSHAK: The B list, yes. Based upon the
10 testimony of the last witness and actually on the prior
11 witnesses who all have testified that they never saw this
12 last call, I think we should know whether or not these
13 documents are being produced for the purpose of this
14 litigation, in other words, this is not a document that's
15 kept in the regular course of business by SOS but is in fact
16 a document that has been prepared for litigation in this
17 matter.

18 THE COURT: Well, that's a good point.

19 MR. NURIK: I will answer that. It has been
20 represented to me that these documents are in fact as they
21 were, and, in fact, if you recall the testimony of prior
22 witnesses, maybe this witness said it, but prior witnesses
23 did not say that they didn't see this.

24 THE COURT: Let me put it this way, let me put it
25 this way, you didn't object, he asked to have it marked, I

1 said okay, but I am concerned that there's no one here who
2 puts it in. On the other hand, I'm likely to allow -- I'm
3 likely to allow 61 to come in now but more as a statement of
4 a co-conspirator, so I'm not sure that this counts as a
5 business record or not, I don't know.

6 MR. NURIK: Well, prior witnesses have identified
7 theirs and have adopted the number, and nobody said that
8 they didn't see that number.

9 THE COURT: Excuse me, he didn't object, it's in.

10 MR. NURIK: Okay.

11 THE COURT: For future reference though --

12 MR. NURIK: Well, there is no future reference.

13 THE COURT: There is no other, so there it is.

14 MR. WYSHAK: These certainly are as authentic as
15 Exhibit 61.

16 THE COURT: I don't know. Let me put it this way,
17 I don't know it's a big deal. How much time do you have
18 with him on the tax records?

19 MR. HORSTMANN: I don't expect to go more than 10,
20 15 minutes.

21 THE COURT: I wish you told me that, I wouldn't
22 have made that poor man come back.

23 MR. HORSTMANN: I thought you had something else,
24 otherwise I would have.

25 THE COURT: I'm sorry, I do have another trial

1 now. Tomorrow who is it?

2 MR. WYSHAK: It's just him and then
3 Special Agent Lemanski, and we rest.

4 THE COURT: How long would be with Lemanski?

5 MR. WYSHAK: She's probably an hour or two on
6 direct. I mean, she's got a lot of stuff to go through.

7 THE COURT: Fine. Then if she doesn't, we'll get
8 started on the charge conference. I haven't really had a
9 chance to go through.

10 MR. NURIK: Let the record reflect I'm turning
11 over to the Court the summaries of the expert testimony so
12 that you can review them.

13 THE COURT: This Mendel said he's coming?

14 MR. NURIK: If I'm allowed to call him, I will.

15 THE COURT: But he's coming?

16 MR. NURIK: Yes.

17 THE CLERK: Judge, I have one thing that everyone
18 should know about. Channel 4 called Jenny, and they want
19 copies, and she transferred it to me, but we're in court,
20 Channel 4 wants pictures of the photographs of Mr. Eremian's
21 house in Antigua. They're defense exhibits, so I don't know
22 what to do. Do I call back 4?

23 THE COURT: That's an interesting question.

24 THE CLERK: We're not custodian yet.

25 THE COURT: Well, we are. They're our documents.

1 Thank you. They all went rushing out of here. I've already
2 looked at Google, they're already doing instant news on the
3 thing.

4 MR. FISHER: Front page of The Herald at lunch.

5 THE COURT: It's a public record, so...

6 MR. NURIK: Well, I have them. Who's going to
7 wrestle me? If the Court orders me.

8 MR. FISHER: They don't belong to us.

9 THE COURT: Didn't I mark them?

10 MR. NURIK: Yes, we marked them.

11 THE COURT: What's your position on all this?

12 MR. NURIK: I would object.

13 MR. WYSHAK: I think generally, your Honor, it is
14 a public record unless the Court finds that by producing it
15 to the press would create a situation which would inflame
16 the jury or affect the jury.

17 THE COURT: Let's just think it through, if it
18 were a member of the print press, I would let them look at
19 it, so I would certainly allow them to look at it, so now
20 the question is will I allow them to take essentially
21 pictures of it? We're not going to mail it out to them,
22 they'd have to come in here. I think the answer is they can
23 come look at it. Think can't film it because I haven't
24 permitted media coverage of the thing, so I don't know, I'm
25 actually not that familiar. Can they take a picture of it?

1 THE CLERK: I don't know. I've seen things on TV
2 though.

3 MR. NURIK: They're not allowed to bring cameras
4 into the courtroom.

5 THE COURT: In the courtroom. The answer right
6 now is they can come look at them, but we're not
7 distributing them to be put on the channel, okay. If they
8 want to look at them, it's a public record.

9 MR. NURIK: I'll give them the photographs.

10 THE COURT: There are no cameras in the courtroom,
11 so that's really the end of that story. Good. See you
12 tomorrow morning, then we'll all have a good break, but I'm
13 thinking you be preparing a closing argument that this is
14 really a good chance on Monday but almost certainty on
15 Tuesday.

16 MR. NURIK: Well, we have to decide whether or
17 not --

18 THE COURT: I have to read this.

19 MR. NURIK: We're going to do charge first.

20 THE COURT: We have to think about that as well.
21 Thank you.

22 (Whereupon, the hearing was suspended at
23 3:59 p.m.)
24
25

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I, Lee A. Marzilli and Valerie A. O'Hara,
Official Federal Court Reporters, do hereby certify that the
foregoing transcript, Pages 13-1 through 13-263 inclusive, was
recorded by me stenographically at the time and place
aforesaid in Criminal No. 10-10159-PBS, United States vs.
Todd Lyons and Daniel Eremian, and thereafter by me reduced
to typewriting and is a true and accurate record of the
proceedings.

In witness whereof we have hereunto set our hand
this day of November, 2011.

Lee A. Marzilli

LEE A. MARZILLI

OFFICIAL COURT REPORTER

/s/ Valerie A. O'Hara

VALERIE A. O'HARA

OFFICIAL COURT REPORTER